

1 VIRGINIA:

2 IN THE COUNTY OF WASHINGTON

3 VIRGINIA DEPARTMENT OF MINES, MINERALS AND ENERGY

4 VIRGINIA GAS AND OIL BOARD

5  
6  
7  
8  
9 JUNE 19, 2001

10  
11  
12 APPEARANCES:

13 MASON BRENT, GAS & OIL INDUSTRY REPRESENTATIVE

14 MAX LEWIS, PUBLIC MEMBER

15 BENNY WAMPLER, DEPUTY DIRECTOR OF THE DEPARTMENT OF MINES,  
16 MINERALS AND ENERGY AND CHAIRMAN

17 CLYDE KING, PUBLIC MEMBER

18 SANDRA RIGGS, ASSISTANT ATTORNEY GENERAL

19 BOB WILSON, DIRECTOR OF THE DIVISION OF GAS & OIL AND ACTING  
20 PRINCIPAL EXECUTIVE TO THE STAFF OF THE BOARD

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

INDEX

<u>AGENDA AND DOCKET NUMBERS:</u>	<u>UNIT</u>	<u>PAGE</u>
1) VGOB-00-11/21-0848	VC-4527	3
2) VGOB-00-12/19-0851	YYY-21	14
3) VGOB-91-05/21-0120-01 (Combined 3 & 12)	Q-35	24
4) VGOB-01-03/20-0880 (Combined 4 & 9)	B-31	44
5) VGOB-94-10/24-0481-02 (Continued)	P-308	71
6) VGOB-93-01/19-0313 (Continued)	EH-108	72
7) VGOB-01-01/16-0855 (Combined 7 & 8)	AV-116	70
8) VGOB-01-01/16-0858 (Combined 7 & 8)	AW-116	70
9) VGOB-01-05/15-0889 (Combined 4 & 9)	C-32	44
10) VGOB-01-05/15-0890 (Continued)	J-38	124
11) VGOB-01-05/15-0891 (Continued)	J-39	125
12) VGOB-91-521-0120-01	Q-35	24
13) VGOB-01-06/19-0897	24340	126
14) VGOB-01-06/19-0898	Fletcher #1 HV	135

1 15) VGOB-01-06/19-0890 VC-4482 158

2 16) VGOB-01-02/20-0869-1 VC-4647 164

3 \*\*\*\*AGENDA ATTACHED

4 BENNY WAMPLER: Okay, we'll get started. Good  
5 morning. My name is Benny Wampler. I'm Deputy Director of  
6 the Department of Mines, Minerals and Energy, and Chairman of  
7 the Gas & Oil Board and I'll ask the members to introduce  
8 themselves.

9 MASON BRENT: My name is Mason Brent. I'm from  
10 Richmond and I represent the Gas and Oil Industry.

11 SANDRA RIGGS: I'm Sandra Riggs with Office of the  
12 Attorney General, here to advise the Board.

13 MAX LEWIS: My name's Max Lewis. I'm from Buchanan  
14 County. I'm a public member.

15 CLYDE KING: My name's Clyde King. I'm from  
16 Washington County. I'm a public member.

17 BOB WILSON: I'm Bob Wilson. I'm the Director of  
18 the Division of Gas & Oil and principal executive to the  
19 staff of the Board.

20 BENNY WAMPLER: The first item on today's agenda,  
21 the Board will consider a petition from Equitable Production  
22 Company for pooling of a coalbed methane unit identified as  
23 VC-4527. This is docket number VGOB-00-11/21-0848; and we'd  
24

1 ask the parties that wish to address the Board in this matter  
2 to come forward at this time.

3                JIM KISER: Mr. Chairman and members of the Board,  
4 Jim Kiser on behalf of Equitable Production Company. Our  
5 witness in this matter will be Don Hall. I'd ask that he be  
6 sworn at this time.

7                (Witness is duly sworn.)

8                BENNY WAMPLER: The record will show there are no  
9 others. You may proceed.

10

11                                DON HALL

12 having been duly sworn, was examined and testified as  
13 follows:

14                                DIRECT EXAMINATION

15 QUESTIONS BY MR. KISER:

16                Q.        Mr. Hall, if you'd state your name for the  
17 Board, who you're employed by, and in what capacity?

18                A.        My name's Don Hall. I'm employed by  
19 Equitable Production Company as District Landman.

20                Q.        And do your responsibilities include the  
21 land involved in VC-4527 and the land in the surrounding  
22 area?

23                A.        Yes, they do.

24

--

1 Q. And are you familiar with Equitable's  
2 application seeking a pooling order for EPC well number VC-  
3 4527, which was dated October the 20<sup>th</sup> of 2000?

4 A. Yes.

5 Q. And is Equitable seeking to force pool the  
6 drilling rights underlying the drilling spacing unit as  
7 depicted at Exhibit A that was just passed...Revised Exhibit  
8 A that was just passed out to the Board?

9 A. Yes.

10 Q. Do you want to go ahead and...well, does the  
11 location proposed for this well fall within the Board's order  
12 for the Nora Coalbed Gas Field?

13 A. It does.

14 Q. Now, prior to filing this application, were  
15 efforts made to contact each of the respondents in an attempt  
16 made to work out an agreement regarding the development of  
17 the unit?

18 A. Yes.

19 Q. Does Equitable own drilling rights in the  
20 unit involved here?

21 A. Yes, we do.

22 Q. Okay. Before we get into the various  
23 interests under lease and not leased in both the gas estate  
24

1 and the coal estate underlying this unit, why don't you  
2 briefly explain for the Board why it has taken so long to get  
3 this matter before them?

4           A.       We have a tract that's shown on the plat  
5 ...the plat to the North that says R. I. Boyd heirs,  
6 Pobst/Combs heirs. The R. I. Boyd heirs owns a 30 acre  
7 exception out of an 116 acre or a 117 acre tract and we're  
8 not sure as to a location of that 30 acre exception. So,  
9 what we've done is attempted to lease the R. I. Boyd heirs  
10 and we have several of those heirs leased and, of course,  
11 several of them are not leased. The Pobst/Combs heirs are  
12 leased by Consol. So, the fact that we have...we're not sure  
13 as to where this 30 acres lie, we are including both the R.  
14 I. Boyd heirs and the Pobst/Combs heirs in this force pooling  
15 and it will be a conflicting claim situation.

16           Q.       Okay. Now, what is the interest of  
17 Equitable...the leased interest of Equitable in the gas  
18 estate if the tract is located as the R. I. Boyd heirs tract?

19           A.       If it's the R. I. Boyd heirs, we would have  
20 95.93% of the oil and gas leased.

21           Q.       And if it turns out to be the Pobst/Combs  
22 heirs?

23           A.       That would be 91.96%.

24

--

1 Q. Okay. And then what is the interest in the  
2 coal estate that is under lease to Equitable within the unit?  
3 A. It would 91.96% either way.  
4 Q. And the unleased coal estate?  
5 A. That would be 8.04%.  
6 JIM KISER: Are there any questions regarding that?  
7 BENNY WAMPLER: Any questions from members of the  
8 Board?  
9 (No audible response.)  
10 Q. And are all the unleased parties set out in  
11 Exhibit B?  
12 A. Yes.  
13 Q. We don't have any unknown parties to this  
14 pooling?  
15 A. No.  
16 Q. And in your professional opinion, was due  
17 diligence exercised to locate each of the respondents named  
18 herein?  
19 A. Yes.  
20 Q. Are addresses set out in Exhibit B to the  
21 application the last known addresses for the respondents?  
22 A. Yes, they are.  
23 Q. And are you requesting this Board to force  
24

1 all unleased interest listed in Exhibit B?

2 A. We are.

3 Q. Now, are you familiar with the fair market  
4 value of drilling rights here and in the surrounding area?

5 A. Yes.

6 Q. Could you advise the Board as to what those  
7 are?

8 A. \$5 year bonus, a five year term and a one-  
9 eighth royalty.

10 Q. Did you gain your opinion and familiarity by  
11 acquiring oil and gas leases, coalbed methane leases and  
12 other agreements involving the transfer of drilling rights in  
13 the unit involved here and in the surrounding area?

14 A. We do...I did.

15 Q. In your opinion, do the terms you have  
16 testified to represent the fair market value of and the fair  
17 and reasonable compensation to be paid for drilling rights  
18 within this unit?

19 A. It does.

20 Q. Now, as to those parties who have not  
21 voluntarily agreed to lease, do you ask the Board that they  
22 be allowed the following options with respect to their  
23 ownership interest within the unit: One, participation; two,

24

--



1 a cash bonus of \$5 per net mineral acre plus a one-eighth of  
2 eighth-eighths royalty; three, in lieu of a cash bonus and  
3 one-eighth of eighth-eighths royalty share in the operation  
4 of the well on a carried basis as a carried operator under  
5 the following conditions: Such carried operator shall be  
6 entitled to the share of production from the tracts pooled  
7 accruing to his interest exclusive of any royalty or  
8 overriding royalty reserved in any leases, assignments  
9 thereof, or agreements relating thereto of such tracts, but  
10 only after the proceeds applicable to his share equal: A)  
11 300% of his share of such costs applicable to the interest of  
12 a carried operator of a leased tract or portion thereof; or  
13 B) 200% of his share of such costs applicable to the interest  
14 of the carried operator of an unleased tract or portion  
15 thereof?

16 A. Yes.

17 Q. Do you recommend the order provide the  
18 elections by the respondents be in writing and sent to the  
19 applicant at Equitable Production Company, 1710 Pennsylvania  
20 Avenue, Charleston, West Virginia, zip code, 25362,  
21 Attention: Melanie Freeman, Regulatory?

22 A. Yes.

23 Q. And should this be the address for all  
24

1 communications with the applicant concerning any force  
2 pooling order?

3 A. It should.

4 Q. Do you recommend that the order provide that  
5 if no written elections was properly made by a respondent,  
6 then such respondent should be deemed to have elected the  
7 cash royalty option in lieu of any participation?

8 A. Yes.

9 Q. Should unleased respondents be given thirty  
10 days from the date of the execution of the Board to file  
11 their written elections?

12 A. Yes.

13 Q. If an unleased respondent elects to  
14 participate, should they be given forty-five days to pay the  
15 applicant for respondent's proportionate share of well costs?

16 A. Yes.

17 Q. Does the applicant expect the party electing  
18 to participate to pay in advance that party's share of  
19 completed well costs?

20 A. Yes.

21 Q. Should the applicant be allowed a hundred  
22 and twenty days following the recording date of the Board  
23 order and thereafter annually on that date until production  
24

--

1 is achieved to pay or tender any cash bonus becoming due  
2 under any force pooling order?

3 A. Yes.

4 Q. Do you recommend that the order provide that  
5 if a respondent elects to participate but fails to pay the  
6 respondents proportionate share of well costs satisfactory to  
7 the applicant for the payment of those costs, then the  
8 respondent's election to participate should be treated as  
9 having been withdrawn and void and such respondent should be  
10 treated just as if no initial election had been filed under  
11 the order?

12 A. Yes.

13 Q. Do you recommend that the order provide that  
14 where a respondent elects to participate but defaults in  
15 regard to the payment of well costs, any cash sum becoming  
16 payable to such respondent be paid within sixty days after  
17 the last date on which such respondent could have paid or  
18 made satisfactory arrangements for the payment of those  
19 costs?

20 A. Yes.

21 Q. Okay, in this case, under Tract 3, we do  
22 have a conflicting claim established. So, do you ask the  
23 Board to create an escrow account that the operator can pay  
24

1 all costs or proceeds attributable to the conflicting  
2 interest and held for the respondent's benefit until such  
3 funds can be paid by order of the Board or until the  
4 conflicting claim is resolved?

5 A. Yes.

6 Q. And who should be named the operator under  
7 any force pooling order?

8 A. Equitable Production Company.

9 Q. Mr. Hall, what is the total depth of the  
10 proposed well under the plan of development?

11 A. 2,000 feet completed to the formations that  
12 are consistent with the well work permit that's pending.

13 Q. And what are the estimated reserved under  
14 this unit?

15 A. 400,000 or 4,000,000...400,000,000 cubic  
16 feet.

17 Q. 400,000,000. Are you familiar with the  
18 well costs for the proposed well under the plan of  
19 development?

20 A. Yes.

21 Q. And has an AFE been reviewed, signed and  
22 submitted to the Board as Exhibit C to the application?

23 A. It has.

24

--

1           Q.       Was this AFE prepared by an engineering  
2 department knowledgeable in the preparation of AFEs and  
3 knowledgeable in regard to well costs in this particular  
4 area?

5           A.       Yes.

6           Q.       In your professional opinion, does this AFE  
7 represent a reasonable estimate of the well costs for unit  
8 well under the plan of development?

9           A.       It does.

10          Q.       Could you at this time state for the Board  
11 at this time what both the dry hole costs and completed well  
12 costs for VC-4527?

13          A.       The dry hole costs is \$78,950 and completed  
14 well costs is \$163,790.

15          Q.       Do these costs anticipate a multiple  
16 completion?

17          A.       They do.

18          Q.       Does your AFE include a reasonable charge  
19 for supervision?

20          A.       It does.

21          Q.       In your professional opinion, will the  
22 granting of this application be in the best interest of  
23 conservation, the prevention of waste and the protection of  
24

--

1 correlative rights?

2 A. Yes.

3 JIM KISER: Nothing further of this witness at this  
4 time, Mr. Chairman.

5 BENNY WAMPLER: Let me ask you, the plat you handed  
6 out this morning, it's no different the revised plat that you  
7 filed earlier. Is that correct?

8 DON HALL: Right. That's correct.

9 BENNY WAMPLER: The same...it's the same. I  
10 couldn't find any difference.

11 (Mr. Kiser confers with Mr. Hall.)

12 JIM KISER: Yeah, the only thing that changed from  
13 the original application was the addition of the conflicting  
14 claim under the Pobst/Combs situation.

15 BENNY WAMPLER: That's what I was just going to  
16 verify. Any questions from members of the Board of this  
17 witness?

18 (No audible response.)

19 BENNY WAMPLER: No questions. Do you have anything  
20 further?

21 JIM KISER: We'd ask that the application be  
22 approved as submitted, Mr. Chairman.

23 BENNY WAMPLER: Is there a motion for approval?  
24

--

1           CLYDE KING: I so move, Mr. Chairman.

2           MASON BRENT: I second.

3           BENNY WAMPLER: Motion and second. Any further  
4 discussions?

5           (No audible response.)

6           BENNY WAMPLER: All in favor, signify by saying yes?  
7 (All members signify yes but Max Lewis.)

8           BENNY WAMPLER: Opposed, say no.

9           MAX LEWIS: No.

10          BENNY WAMPLER: You have approval. Thank you. The  
11 next item on the agenda is a petition from Buchanan  
12 Production Company for pooling of a coalbed methane unit  
13 identified as YYY-21. This is docket number VGOB-00-12/19-  
14 0851; and we'd ask the parties that wish to address the Board  
15 in this matter to come forward at this time.

16          MARK SWARTZ: Mark Swartz and Les Arrington  
17 appearing for the applicant.

18          BENNY WAMPLER: The record will show there are no  
19 others. You may proceed.

20          MARK SWARTZ: This unit was noticed back in December  
21 and has been periodically continued. The primary reason for  
22 the continuances were, or was, that Equitable had, and  
23 Buchanan, both have leases in this unit. In fact, as it  
24

1 turned out, some of the leases were with the same people and  
2 some our leases pre-dated theirs. Some of ours post dated  
3 theirs. We got the title and lease issue squared away and  
4 then we attempted to negotiate with Equitable in an  
5 arrangement whereby in effect we would buy their  
6 participation interest out of the unit. And we have, in  
7 fact, concluded an agreement in that...in that regard. And  
8 Equitable is not, therefore, objecting this morning because  
9 we have reached an arrangement between ourselves with regard  
10 to that participation interest. So, we can proceed with, you  
11 know, what has now become a fairly straight forward pooling.  
12 But I just wanted to give you some background in terms of  
13 where...you know, why we had...why this had taken a while and  
14 where we are today in terms resolving some of the differences  
15 that we had. In looking at the people that are respondents,  
16 people that are dismissed as respondents, and then people who  
17 are actually being pooled, there is a collection of amended  
18 exhibits, which Les may have passed out the last time we were  
19 here, but what you need to attend to, at least with regard to  
20 Exhibit A, page two, Exhibit B-3 and Exhibit B-2, are the  
21 various exhibits that have May the 14<sup>th</sup>/01 down in the lower  
22 right hand corner. So that you've got the revised exhibits  
23 after the additional due diligence was done. Okay, with that

24

--



1 caveat, I would ask Les...that Les be sworn.

2 (Witness is duly sworn.)

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

--

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

LESLIE K. ARRINGTON

having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

Q. You need to state your name for us, Les.

A. Leslie K. Arrington.

Q. And are you employed?

A. By Consol Energy.

Q. What do you do for them?

A. A gas engineer.

Q. Were you...did you either prepare, or cause to be prepared, the Notice of Hearing, the application, and the related exhibits and amended exhibits with regard to the pooling application concerning YYY-21?

A. Yes, I did.

Q. Okay. Who's the applicant?

A. Buchanan Production Company.

Q. Is Buchanan Production Company a Virginia General Partnership?

A. Yes, it is.

Q. Is Buchanan Production Company composed of two partners who are Appalachian Operators, Inc. and

1 Appalachian Methane, Inc.?

2 A. Yes, it is.

3 Q. And are these two partners wholly owned,  
4 indirect subsidiaries of Consol Energy, Inc.?

5 A. Yes, they are.

6 Q. Is Buchanan Production Company authorized to  
7 do business in the Commonwealth?

8 A. Yes, it is.

9 Q. Who is the applicant requesting be  
10 designated as operator if the application is approved?

11 A. Consol Energy.

12 Q. Is Consol Energy a Delaware Corporation?

13 A. Yes, it is.

14 Q. Is it authorized to do business in the  
15 Commonwealth, has registered with the DMME, and does it have  
16 a blanket bond on file?

17 A. Yes, it does.

18 Q. Did the management committee of Buchanan  
19 Production Company delegate to Consol, Inc., the predecessor  
20 of Consol Energy, Inc., the authority and responsibility to  
21 essentially manage its coalbed methane assets in the  
22 Commonwealth?

23 A. Yes, it has.

24

1                   Q.       And did Consol, and now Consol Energy, Inc.,  
2 accept that delegation?

3                   A.       Yes, it has.

4                   Q.       Have you listed the names of the  
5 respondents, the people that are to be pooled here in the  
6 amended Exhibit B-3?

7                   A.       Yes, we have.

8                   Q.       And how did you provide them with notice?

9                   A.       By certified mail/return receipt requested.

10                  Q.       And did you file proof of notice, the return  
11 receipts and so forth, mailing notice with the Board?

12                  A.       Yes, we have.

13                  Q.       Okay. And was there also a publication?

14                  A.       Yes, it was. It was published in the  
15 Bluefield Daily Telegraph on November the 22<sup>nd</sup> of 2000.

16                  Q.       Okay. The...since filing, we've determined  
17 that we have leases from some folks, right?

18                  A.       Uh-huh.

19                  Q.       And have you filed an exhibit with the Board  
20 indicating that certain respondents initially named can be  
21 dismissed?

22                  A.       That's correct. They're listed in Exhibit  
23 #4, Exhibit B2.

24

--

1 Q. Okay. And that would be the version May the  
2 14th/01?

3 A. Correct.

4 Q. And the reason for the dismissal is that  
5 you've obtained leased from all the folks---?

6 A. We have.

7 Q. ---that are listed on that Exhibit B2?

8 A. That's correct.

9 Q. And that would then have resulted in a  
10 change with regard to the interest that you have leased and  
11 need to pool, correct?

12 A. That's correct.

13 Q. Could you summarize for the Board the  
14 interest you've acquired and the interest you are seeking to  
15 pool?

16 A. Yes. We have 95.42064% of the coal, oil and  
17 gas, coalbed methane interest leased. We're seeking to pool  
18 4.57936% of the coal, oil and gas, coalbed methane interest.  
19 We have 98.08664% of the coal leased below this unit.

20 Q. And this pooling application is to pool  
21 or...is to pool an Oakwood I frac unit, is that correct?

22 A. That's correct.

23 Q. So, that would be an 80 acre unit?

24

--

1           A.       Yes.

2           Q.       And it would be to produce coalbed methane  
3 from the Tiller on down?

4           A.       That's correct.

5           Q.       There's a plat in the application, is there  
6 not?

7           A.       There is.

8           Q.       And how many wells are proposed to be  
9 located in this 80 acre unit?

10          A.       One.

11          Q.       And is that well shown...location shown on  
12 the plat that has been submitted and is it within the window?

13          A.       Yes, it is.

14          Q.       Okay, so, you don't need a drilling  
15 exception?

16          A.       That's correct.

17          Q.       Has the permit been issued for this well?

18          A.       Yes, it has.

19          Q.       And is the permit number 4764?

20          A.       Yes, it is.

21          Q.       Have you submitted a cost estimate that  
22 includes costs incurred as well as estimated costs which will  
23 be incurred in the future concerning this well?

24

1           A.       Yes. The cost for the well is \$222,810.48,  
2 drilled to an estimated depth of 2303 feet.

3           Q.       And it has been drilled?

4           A.       Yes, it has.

5           Q.       Has it not as yet been completed, however?

6           A.       It has been completed.

7           Q.       Has it been fraced?

8           A.       Yes, it has.

9           Q.       Okay. So, it's ready to go, basically?

10          A.       Yes.

11          Q.       Okay. And, in fact, is it hooked in to the  
12 gathering system?

13          A.       It's ready to go.

14          Q.       Okay. Would you request that in the event  
15 that the Board would pool this unit, that you be allowed to  
16 commence production as of noon today?

17          A.       As...as soon as possible.

18          Q.       Okay. Now, you heard me represent to the  
19 Board that to the extent that the application and exhibits  
20 show leases with Equitable, that a settlement, or a purchase  
21 agreement, has been reached between Buchanan Production  
22 Company and Equitable with regard to their potential  
23 participation interest, correct?

24

1           A.       Yes.

2           Q.       We've talked about dismissing respondents.  
3 Do you want to add any respondents today?

4           A.       No.

5           Q.       With regard to a term in any Board order  
6 that might be issued concerning lease terms for people who  
7 would be deemed to have been leased, if that occurs, what  
8 would your recommendation be?

9           A.       A standard lease term is a dollar per acre  
10 per year for a coalbed methane lease with a five year paid up  
11 term and a one-eighth royalty.

12          Q.       And obviously, you've been able to lease  
13 roughly 55...95% of the units, correct?

14          A.       Yes, we have.

15          Q.       Okay. The percentage shown on Exhibit B-3,  
16 percent of the unit, do you see that?

17          A.       Yes.

18          Q.       Would that be the percentage that the folks,  
19 the lessors...who are being lessors or other respondents who  
20 are being pooled, would that be the percentage that they  
21 would use to calculate their royalty interest?

22          A.       It would be.

23          Q.       Okay. You basically would multiply that  
24



1 percentage times the 12 1/2% and that would be their royalty  
2 share?

3 A. Yes.

4 Q. Would the people who are being pooled use  
5 the same percentage of unit that's reported on Exhibit B-3 to  
6 calculate their participation interest?

7 A. They would.

8 Q. They would multiply the percentage times the  
9 estimated cost?

10 A. Yes.

11 Q. And that would give them participation?

12 A. Yes, it would.

13 Q. And the same percentage would be used as  
14 the...as part of the multiplication process for a carried  
15 interest calculation as well?

16 A. It would.

17 Q. Okay. Is it your opinion that the plan of  
18 development under the Oakwood I rules of a frac unit over  
19 YYY-21 that's disclosed by the application and the plat is a  
20 reasonable plan to develop the methane under this unit?

21 A. Yes, it is.

22 Q. And would you recommend that to the Board?

23 A. Yes, we would.

24

--

1                   Q.        Would the plan and the leases that you've  
2   obtained, the agreement that you've reached with Equitable  
3   and the pooling here, serve to protect all the rights of  
4   corre...the correlative rights of all owners?

5                   A.        Yes, it will.

6                   Q.        That's all I have.

7                   BENNY WAMPLER: Any questions from members of the  
8   Board?

9                   MAX LEWIS: Who is the Pioneer Group that owns that  
10   surface?

11                  LESLIE K. ARRINGTON: The Pioneer Group that owns  
12   that surface is a group from around Bristol. I think it's  
13   dealing with Clyde Stacy and that---.

14                  BENNY WAMPLER: Any other questions?

15                  MAX LEWIS: Do you come into this well from the  
16   Lower Big Branch and White Oak both?

17                  LESLIE K. ARRINGTON: White Oak only at this time.

18                  MAX LEWIS: That's what I thought.

19                  BENNY WAMPLER: Do you have anything further?

20                  MARK SWARTZ: No.

21                  BENNY WAMPLER: Is there a motion?

22                  MASON BRENT: I move that we grant the application,  
23   Mr. Chairman.

24

--

1           BENNY WAMPLER: Motion to approve the application.  
2 Is there a second?  
3           CLYDE KING: Second.  
4           BENNY WAMPLER: Motion and second. Any further  
5 discussions?  
6           (No audible response.)  
7           BENNY WAMPLER: All in favor, signify by saying yes.  
8           (All members signify yes but Max Lewis.)  
9           BENNY WAMPLER: Opposed, say no.  
10          MAX LEWIS: No.  
11          BENNY WAMPLER: You have approval with one  
12 objection. The next item on the agenda is reconvening docket  
13 number VGOB-91-05/21-0120, Q-35. Today's docket number is  
14 VGOB-95-05/21-0120-01. This was continued from May.  
15          MARK SWARTZ: Mark Swartz and Les Arrington and  
16 Anita Tester appearing on this docket item. I would also  
17 request, Mr. Chairman, that you entertain a motion to combine  
18 this hearing, the disbursement hearing, with a repooling of  
19 the same unit that is docket number twelve. Basically, we  
20 had initially pooled the unit as a frac unit, twelve seeks to  
21 repool it as a active gob under Oakwood II and also we're  
22 dealing with an ownership issue that has surfaced between the  
23 time of the original pooling in '90 or '91 and now. So, we'd  
24

--

1 like to combine that. I think that it would make some sense  
2 to do that.

3 CLYDE KING: Item twelve?

4 BENNY WAMPLER: Any objection to doing that from  
5 members of the Board?

6 MAX LEWIS: What?

7 BENNY WAMPLER: Number twelve...item number twelve,  
8 he's requesting to combine. Do you have any problems with  
9 that?

10 CLYDE KING: What?

11 BENNY WAMPLER: He has asked to combine item twelve  
12 with three for repooling dealing with the same matters.

13 We'll go ahead and call that. This would be a petition from  
14 Buchanan Production Company for pooling of a coalbed methane  
15 unit identified as Q-35, docket number VGOB-91-521/0120-01.  
16 Both of these deal with Q-35. It's items three and twelve on  
17 today's agenda. The record will show there are no others.  
18 You may proceed.

19 MARK SWARTZ: Just to kind of focus you here, the  
20 disbursement concerns tract two, which is identified in  
21 the...in the exhibits, and to date, escrow has only been made  
22 with regard to Tract 2. So, the accounting is pretty simple.  
23 We'll get to that later with Anita. But basically, all of

24

--

1 the money that has been on deposit with the Board's escrow  
2 agent pertains to Tract 2 and if we get an order disbursing  
3 that and opening a new account for Tract 4, which we're  
4 pooling an interest in that needs to start escrowing, we'll  
5 be square. Okay, so, we'll get one out and create the other  
6 one, and we'll talk about that at the end because I think it  
7 makes sense maybe to repool this thing first and then we'll  
8 deal with the escrow issue. But the tracts we'll talking  
9 about, the disbursement is Tract 2, which we'll clean that  
10 out and then we need to create an account for Tract 4. We've  
11 been paying the royalty to one of our lessors and we're going  
12 to need to recoup that and make that up in Tract 4. So,  
13 we're going to have to get, you know, a balance from day one  
14 to replace it and then escrow forward. With that in mind,  
15 Les, I'll remind that you're still under oath.

16 LESLIE K. ARRINGTON: Yes.

17

18 LESLIE K. ARRINGTON

19 DIRECT EXAMINATION

20 QUESTIONS BY MR. SWARTZ:

21 Q. You need to state your name again.

22 A. Leslie K. Arrington.

23 Q. Who do you work for?

24

--

1           A.       Consol Energy.

2           Q.       With regard to Q-35, have you...did you  
3 prepare the Notice of Hearing and the application and related  
4 Exhibits or have someone prepare them under your direction?

5           A.       Yes, I did.

6           Q.       Okay. And have you also either personally,  
7 or by delegation to Anita Tester, prepared spreadsheets with  
8 regard to the disbursement that needs to occur?

9           A.       Yes, she did.

10          Q.       So, Anita did that?

11          A.       Yes, she did.

12          Q.       Okay. And she's here today as well?

13          A.       Yes, she is.

14          MARK SWARTZ: Anita, why don't you raise your...why  
15 don't we swear you in as well.

16               (Witness is duly sworn.)

17          Q.       Les, the applicant here is who?

18          A.       Buchanan Production Company.

19          Q.       Okay. And application is to repool a unit  
20 that was initially pooled as an Oakwood unit to also allow  
21 for the production of active gob under the Oakwood II rules,  
22 is that correct?

23          A.       It is.

24

--

1           Q.       Have you brought with you today an exhibit  
2 that we would offer as Exhibit G, that is the mine map of the  
3 longwall panels over which you placed the units?

4           A.       Yes, it is.

5           Q.       Okay. And for some reason or another, small  
6 copies of that were not included in the application?

7           A.       They were not. Correct.

8           Q.       Okay. Do you want to pass that out to Benny  
9 and they can pass it around?

10          A.       Yeah.

11          (Mr. Arrington passes out the exhibit.)

12          A.       And we will submit copies of that.

13          Q.       Okay. And if I'm not mistaken, that map  
14 shows that there are four wells in the unit that we're  
15 talking about, the Q-35?

16          A.       That's correct.

17          Q.       Okay. Is Buchanan Production Company a  
18 Virginia General Partnership?

19          A.       Yes, it is.

20          Q.       Is that partnership made up of two partners,  
21 Appalachian Operators, Inc. and Appalachian Methane, both of  
22 which are wholly owned indirect subsidiaries of Consol  
23 Energy, Inc.?

24

1           A.       Yes, they are.

2           Q.       Is Buchanan Production Company authorized to  
3 do business in the Commonwealth?

4           A.       Yes, it is.

5           Q.       Who is the applicant requesting continue as  
6 designated operator?

7           A.       Consol Energy.

8           Q.       Is Consol Energy, Inc. has been the  
9 operator?

10          A.       Yes, it has.

11          Q.       And then Consol Energy has become the  
12 successor?

13          A.       Yes, it has.

14          Q.       And you're asking that that continue?

15          A.       Yes.

16          Q.       Have you listed the names of the respondents  
17 in the Notice of Hearing?

18          A.       Yes, we did.

19          Q.       And if you look at Exhibit B-3, we have...we  
20 have an address unknown situation?

21          A.       We did.

22          Q.       And also an unlocateable issue as well?

23          A.       That's correct.

24



1                   Q.        Would you describe what has been done to try  
2 and determine who the heirs, successors and assigns of D. C.  
3 Rakes may be and where they might be?

4                   A.        Courthouse records is mainly where we've  
5 attempted to find the D. C. Rakes heirs. This was something  
6 back in the 1800s.

7                   Q.        And there's just...there's just not a  
8 conveyance or Wills that locate...that you can locate?

9                   A.        That's correct.

10                  Q.        So, this needs to be escrowed, then, for an  
11 unlocateable issue, as well as an unknown, as well as a  
12 conflicting claim?

13                  A.        That's correct.

14                  Q.        And you've got an Exhibit E that discloses  
15 that?

16                  A.        We do.

17                  Q.        Okay. And in the event that this should be  
18 pooled, you would request that the Board enter an order  
19 requiring escrow with regard to Tracts 4 and 2 for the  
20 unlocateable issue concerning...I'm sorry, for just Tract 4?

21                  A.        That's correct, tract 4 only.

22                  Q.        Okay. For unlocateables, unknowns and  
23 conflict?

24

--

1                   A.       Correct.

2                   Q.       Okay. With regard to Tract 2, what's the  
3 situation?

4                   A.       There has been...for the escrow on that  
5 tract, there has been a royalty split agreement of which  
6 we've previously submitted that information to the Board and  
7 we're here today to take care of that issue.

8                   Q.       Okay. That's the Tract 2 that we're  
9 speaking of?

10                  A.       That's correct.

11                  Q.       Okay. And that's disclosed on the EE  
12 Exhibit?

13                  A.       Yes, it is.

14                  Q.       The unit that we're talking about here is an  
15 Oakwood I and II unit, correct?

16                  A.       It is.

17                  Q.       It's an 80 acre unit?

18                  A.       Yes, it is.

19                  Q.       And we've already indicated that it has four  
20 wells located in it and those are shown on the plat, correct?

21                  A.       They are.

22                  Q.       Have you allocated costs to this unit with  
23 regard to the longwall panels that affect this unit?

24

1                   A.       We have.

2                   Q.       Okay, and how many panels are under this  
3 unit?

4                   A.       Three...two.

5                   Q.       Okay. And what mine are they located in?

6                   A.       In the Buchanan No. 1 mine.

7                   Q.       And what panel of numbers or names are they  
8 given?

9                   A.       I have given them the five East and six East  
10 panel numbers.

11                  Q.       Okay. And can you tell the Board how you  
12 have made the calculation and what you've included on Exhibit  
13 G, page one to make this allocation?

14                  A.       Yes. From the map, again, I forgot to  
15 prepare small maps, but from the map you can see what we've  
16 done is taken the two longwall panels and shown them in the  
17 respective 80 acre units that they belong in and you'll see  
18 those 80 acre units shown up on Exhibit G, page 1. We've  
19 done their proportional interest within those 80 acre units  
20 and allocated the costs across those panels. And the costs  
21 for unit Q-35 for panel five and six is \$630,110.45.

22                  Q.       And that would be the cost that would be  
23 relevant for participation or carried interest?

24

1                   A.       Yes, it is.

2                   Q.       Okay. Now, let's look at Exhibit B-3 again  
3 for a minute.

4                   A.       Okay.

5                   Q.       You've got a percent of unit there.

6                   A.       We do.

7                   Q.       And if someone was looking to calculate or  
8 estimate the participation costs, the percent of unit is what  
9 they would multiply times the allocated costs to determine  
10 their participation costs, correct?

11                  A.       That's correct.

12                  Q.       And the same calculation would apply to the  
13 carried interest?

14                  A.       Yes, it would.

15                  Q.       But with regard to royalty, there is  
16 actually royalty allocation for each longwall panel under the  
17 Oakwood II rules, correct?

18                  A.       That's correct.

19                  Q.       And those are reported in the columns by  
20 five East and six East?

21                  A.       They are.

22                  Q.       And the percentage immediately under the  
23 heading is the percentage of that panel that is within the Q-  
24

1 35 unit, is that correct?

2 A. Yes, it is.

3 Q. Okay. And then reported opposite the Rakes  
4 heirs's names is the...is their interest in the Q-35 unit in  
5 each panel?

6 A. That's correct. It is.

7 Q. And from a royalty standpoint, they would  
8 multiply that percentage times the 12½ percent for each panel  
9 to generate the royalty?

10 A. They would.

11 Q. Now, how did you attempt to notify the Rakes  
12 heirs?

13 A. We published in the Bluefield Daily  
14 Telegraph on May the 23<sup>rd</sup>.

15 Q. And what did you publish?

16 A. The Notice of Hearing.

17 Q. And the maps, right?

18 A. Yes.

19 Q. Do you wish today to add any respondents or  
20 subtract any?

21 A. No.

22 Q. Have you filed proof of publication with the  
23 Board?

24

1           A.       Yes, we have.

2           Q.       What terms...lease terms would you recommend  
3 to the Board for folks who might be deemed to be leased?

4           A.       For a coalbed methane lease, it's a \$1 per  
5 acre per year with a five year paid up term and a one-eighth  
6 royalty.

7           Q.       What interest...what is the extent of the  
8 interest that the applicant has been able to acquire in this  
9 unit and what is the extent of the interest that the  
10 applicant needs to pool?

11          A.       We have 100% of the coal, coalbed methane  
12 interest leased, 98.2875% of the coalbed methane interest  
13 from the oil and gas owners, and we're seeking to pool  
14 1.7125% of the oil and gas, coalbed methane interest.

15          Q.       With regard to now...sort of moving toward  
16 the need for escrow in the future, look at the tract  
17 identifications regarding Tract 4.

18          A.       Yes.

19          Q.       Would you tell the Board what issue arose  
20 between the time that this unit was first pooled presumably  
21 by Oxy and is being repooled today with regard to title in  
22 Tract 4?

23          A.       Yes. Tract 4, as we reviewed our  
24

1 information, getting ready for the royalty split for Tract 2  
2 reviewing our information and our title information, we  
3 discovered that the Yukon/Pocahontas tract was not a fee  
4 tract or a coal, oil and gas tract. And through our title  
5 information, we found that the D. C. Rakes heirs have the oil  
6 and gas and that's the reason we've had to continue...we had  
7 no reason, since this well was in production when we acquired  
8 and I was already paying royalty, we didn't go back and check  
9 over everything until we had reason to. Once we found that,  
10 that's the reason we're here today.

11 Q. What has happened historically is  
12 Yukon/Pochontas has received that...that royalty?

13 A. They have.

14 Q. Okay. And it's in conflict?

15 A. It is, yes.

16 Q. And essentially you're going to recoup from  
17 Yukon/Pocahontas and put...you know, start the escrow for  
18 Tract 4 with the appropriate historical balance and then pay  
19 it into escrow going forward?

20 A. That's correct. We will.

21 Q. Okay. What's the situation with regard to  
22 Tract 2 now that we need to talk about in terms of a  
23 disbursement?

24

--

1           A.       Yes. In Tract 2, we do have a royalty split  
2 agreement with Clyborne oil and gas interest and that's what  
3 we're here to do today is to have that royalty split...the  
4 money that's in the account, the money that's there should be  
5 totally disbursed and we should start a new escrow account  
6 there for Tract 4.

7           Q.       And basically the situation in Tract 2 is  
8 the Franks Estate owns half the coal, oil and gas and has  
9 been paid?

10          A.       They have.

11          Q.       And what has been escrowed to date that is  
12 subject to the royalty split agreement is half of the royalty  
13 that was in conflict between Clyborne and Consolidation,  
14 correct?

15          A.       Right.

16          Q.       And that's what you're seeking to zero out?

17          A.       We are.

18          MARK SWARTZ: Anita, can you pass out copies of what  
19 you've...if you haven't already.

20          ANITA TESTER: I have.

21

22                   ANITA TESTER

23 having been duly sworn, was examined and testified as

24

--



1 follows:

2 DIRECT EXAMINATION

3 QUESTIONS BY MR. SWARTZ:

4 Q. Okay. Why don't you explain to the Board  
5 what you've done in terms of this account and what needs to  
6 be done to zero it out.

7 A. I gathered the information from the bank and  
8 verified it with (inaudible), which is their accounting for  
9 Buchanan Production. The final date that I have is February  
10 the 23<sup>rd</sup> of this year. The balance is \$780.95. And all of  
11 the money that's in the account from Tract #2 should be  
12 disbursed. There shouldn't be any money left after this.

13 Q. Okay. For accounting that you've done  
14 through February, do your records and the (inaudible) records  
15 and the bank records agree?

16 A. Yes.

17 Q. Okay. So, at least up to the end of  
18 February, we're in agreement with the bank that they've  
19 accounted for the funds that we have paid concerning this  
20 tract?

21 A. Yes.

22 Q. Okay. And for going forward, should the  
23 bank disburse monies received after February with regard to  
24

1 Tract 2, and should the Board's order allow us to stop  
2 escrowing with regard to Tract 2?

3 A. Yes.

4 Q. Okay.

5

6 LESLIE K. ARRINGTON

7 DIRECT EXAMINATION

8 QUESTIONS BY MR. SWARTZ:

9 Q. And then in addition, Les, should the Board  
10 direct escrow with regard to Tract 4?

11 A. Yes, it should.

12 Q. Okay. And that ought to clean up that  
13 escrow account and get the right subaccounts, correct?

14 A. It should.

15 Q. Lastly, Les, would you recommend to the  
16 Board that this plan of development that's disclosed by  
17 Exhibit G, the map that you've passed out and by the  
18 application, is a reasonable plan that they should approve  
19 for the development of coalbed methane under this unit?

20 A. Yes, it is.

21 Q. Okay. And would you also recommend to the  
22 Board that this application be approved to protect the  
23 correlative rights of the unknown and unlocateable Rakes

24

--

1 heirs?

2 A. That's correct.

3 Q. That's all I have.

4 BENNY WAMPLER: Any questions from members of the  
5 Board?

6 (No audible response.)

7 BENNY WAMPLER: Anita, I'd just ask for a  
8 clarification on the spread...on the sheet that you gave us  
9 that shows your balance and the bank balance. There's  
10 obviously at points that...areas where there's not an  
11 agreement, when it first begins, for example, and then areas  
12 where the bank doesn't show a balance. Could you just, for  
13 our information and for the record, tell us to the best of  
14 your knowledge why those are left out, the bank balances?  
15 They just didn't show something or---?

16 ANITA TESTER: Sometimes when I get the ledger  
17 sheets from the bank, it just varies. Sometimes they're on  
18 six month periods. So, I won't get a bank balance until  
19 like...sometimes it goes like January through June. So, I  
20 only get that final balance for the six months and the  
21 balance that I've carried now is just the balance of, you  
22 know, taking the numbers and doing the addition across.

23 CLYDE KING: Which bank?

24

--

1           ANITA TESTER: Well, it was originally First  
2 Virginia and now it's First Union.

3           CLYDE KING: This is First Union?

4           ANITA TESTER: Now. But some of this original  
5 information up until the end of '99 came from First Virginia.

6           BENNY WAMPLER: I noticed that since November of '99  
7 you've had....your balance and the bank's balance agree.  
8 Prior to that, there was back and forth discrepancies.

9           ANITA TESTER: Well, sometimes too, when I get the  
10 information from (inaudible), they give me deposit by  
11 deposit. Sometimes they'll compile...you know, put them all  
12 into one and just have...the bank won't every month put that  
13 money in individually. Sometimes they, you know, compile two  
14 or three months together and show that.

15           BENNY WAMPLER: Other questions from members of the  
16 Board?

17           (No audible response.)

18           MASON BRENT: Shouldn't we have a confirming  
19 statement from the bank that they do indeed agree with these  
20 numbers?

21           BENNY WAMPLER: Yes.

22           BOB WILSON: Yes.

23           BENNY WAMPLER: We do that before we actually do the  
24

1 disbursement. Bob?

2 MASON BRENT: Disbursement.

3 BOB WILSON: They copy me on the correspondence  
4 that they have the operators to confirm those balances.

5 MASON BRENT: Good.

6 CLYDE KING: That's in agreement.

7 MARK SWARTZ: It just occurs to me it would be great  
8 if we could just deal with them and get them to pay out money  
9 they don't have, too. I guess, that probably wouldn't...they  
10 might be a restricting factor.

11 BENNY WAMPLER: Any other questions from members of  
12 the Board?

13 BOB WILSON: Mr. Chairman, just a procedural  
14 question to understand. On the Tract 4, do I understand  
15 correctly that you're going to go back and calculate this  
16 back to day one and deposit a lump sum in...back into escrow  
17 account---?

18 MARK SWARTZ: Right.

19 BOB WILSON: ---that would account for production  
20 attributable to Tract 4 from day one until the present time?

21 MARK SWARTZ: Correct.

22 BOB WILSON: And then we'll be paying it from now  
23 on, is that correct?

24  
~

1           MARK SWARTZ: Right. And we're...you know, as we've  
2 done in the past, we're going to, you know, take the  
3 historical interest rate that we can calculate from the...you  
4 know, what the escrow agent has been earning. So, you know,  
5 we'll take the principal funds, but we'll, you know, impute  
6 an interest to get that squared away so there's a beginning  
7 balance that catches us up...I mean, we've done this before  
8 occasionally, that catches us up and then we'll...you know,  
9 we're going to stop paying Unicon and start paying the  
10 escrow. So, procedurally that's what's going to occur. And  
11 what, you know, Anita is going to have to do is a spreadsheet  
12 like this to back that up and we'll share that with you. But  
13 you do need...the order needs to instruct the escrow agent to  
14 set up this subaccount to accept, you know, the catch up  
15 payment and to accept monthly thereafter.

16           SANDRA RIGGS: I think the thing to do, Bob, is to  
17 notify the escrow agent to take all funds on deposit and put  
18 them into a Tract 2---.

19           MARK SWARTZ: Tract 2.

20           SANDRA RIGGS: ---subaccount now and designate  
21 those funds now.

22           BOB WILSON: Right.

23           SANDRA RIGGS: And designate those funds so they  
24

--

1 don't commingle when the monies come in.

2           BOB WILSON: Yeah, they're actually dividing some of  
3 those accounts into subaccounts now---.

4           SANDRA RIGGS: Right.

5           BOB WILSON: ---which is where this would go.

6           SANDRA RIGGS: Right.

7           BOB WILSON: That's the reason I was trying to  
8 clarify that.

9           MARK SWARTZ: But that will work.

10          BENNY WAMPLER: Other questions or clarifications?

11          CLYDE KING: All of that is part of this agreement  
12 with the bank which you were just discussing? That's to be  
13 included in this---.

14          SANDRA RIGGS: It will be in the order that I draft  
15 that goes to the bank to instruct them what to do.

16          BENNY WAMPLER: Anything further?

17          MARK SWARTZ: No.

18          BENNY WAMPLER: Other questions from members of the  
19 Board?

20          (No audible response.)

21          CLYDE KING: Are we including twelve and four in  
22 this---?

23          BENNY WAMPLER: We're including item number twelve  
24

1 and three.

2                   MAX LEWIS: Twelve and three?

3                   BENNY WAMPLER: Yes, sir. Of course, your motion,  
4 if you needed to separate them for any reason, but I think  
5 we're okay to do a motion for both if you're okay to do that.  
6 Is there a motion for approval?

7                   MASON BRENT: I so move.

8                   BENNY WAMPLER: Is there a second?

9                   CLYDE KING: Second.

10                  BENNY WAMPLER: Any further discussions?

11                  (No audible response.)

12                  BENNY WAMPLER: All in favor, signify by saying yes.

13                  (All members signify yes.)

14                  BENNY WAMPLER: Opposed, say no.

15                  (No audible response.)

16                  BENNY WAMPLER: You have approval. The next item on  
17 the agenda is a petition from Buchanan Production Company for  
18 pooling of a coalbed methane unit identified as B-31, docket  
19 number VGOB-01-03/20-0880. We'd ask the parties that wish to  
20 address the Board in this matter to come forward at this  
21 time.

22                  MARK SWARTZ: Mr. Johnson would like a five minute  
23 recess or so to talk about this, which I don't have an  
24



1 objection to, to see if we streamline---.

2           BENNY WAMPLER: We'll do that if we can streamline  
3 it.

4           DONALD R. JOHNSON: We're hoping to streamline a  
5 little bit.

6           BENNY WAMPLER: It sounds good to us.

7           MARK SWARTZ: There's no guarantee that this will  
8 happen, but we're going to try.

9           DONALD R. JOHNSON: We don't guarantee anything.  
10 (Off record.)

11           BENNY WAMPLER: Okay, we'll call the meeting back to  
12 order, please.

13           MARK SWARTZ: Mark Swartz and Les Arrington on B-31  
14 that you've just called. And I would propose that you  
15 combine for hearing the B-31 matter with the C-32 unit, which  
16 is number nine on your docket since we've got the  
17 same...basically the same folks and the same issues.

18           BENNY WAMPLER: Any objections?

19           CLYDE KING: Just those two?

20           MARK SWARTZ: Correct.

21           BENNY WAMPLER: Yes.

22           DONALD R. JOHNSON: Mr. Wampler, I'm here for the  
23 Fon Rogers, II, Trustee of the Lon B. Rogers Bradshaw Trust  
24

1 No. 1, Lon B. Rogers Bradshaw Trust No. 2, and my client has  
2 no objection to the consolidation purposes for this hearing.

3 BENNY WAMPLER: Mr. Kiser, do you want to identify  
4 yourself for the record.

5 JIM KISER: Jim Kiser on behalf of Equitable  
6 Production Company.

7 BENNY WAMPLER: Any objection to combining them?

8 JIM KISER: No, not at all.

9 BENNY WAMPLER: Those would be combined. I'll go  
10 ahead and call that. This is also to consider a petition  
11 from Buchanan Production Company for unit identified as C-32,  
12 docket number VGOB-01-05/15-0889. We'd ask the parties that  
13 wish to address the Board in these matters to come forward at  
14 this time?

15 MARK SWARTZ: Mark Swartz and Les Arrington on  
16 behalf of the applicant.

17 DONALD R. JOHNSON: Donald R. Johnson attorney for  
18 Lon B. Rogers Bradshaw Trust No. 1 and Lon B. Rogers Bradshaw  
19 Trust No. 2. The Trust No. 1 is oil and gas owner on part of  
20 the unit and Trust No. 2 is the surface and coal owner on  
21 part of the unit.

22 JIM KISER: Jim Kiser on behalf of Equitable  
23 Production Company.

24

--

1           BENNY WAMPLER: You may proceed, Mr. Swartz.

2           MARK SWARTZ: By way of introduction and  
3 explanation, these two pooling applications were filed in  
4 January and have been continued several times. The primary  
5 reasons for the continuance were Mr. Johnson's clients'  
6 concerns and Mr. Kiser's clients' concerns. When we were  
7 here at some point in late spring, we agreed that we would  
8 try and work our differences. Mr. Kiser and I understood,  
9 based on some representations that had been made to the Board  
10 in our presence, that Equitable could reach an agreement with  
11 my client, that the Rogers interest would live with.

12           And so the clients, Buchanan Production and  
13 Equitable have spent a fair amount of time pursuing an  
14 agreement and ultimately reached an agreement, which in  
15 substance provided that Buchanan Production would purchase  
16 Equitable's right to participate in these two units and some  
17 other units as well. And the assumption when we reached the  
18 agreement was that the Rogers interest that Mr. Johnson  
19 represents would, in fact, assign the portions of their  
20 leases to Buchanan Production as part of the deal, and  
21 ultimately that has not turned out to be the case. But the  
22 settlement with Equitable, or the purchase agreement,  
23 essentially to buy their participation interest is an

24

--

1 agreement that works for us that we have reached and that we  
2 can conclude without reaching an agreement with the Rogers'.

3           The last thing I will say about the agreement that  
4 our two companies, Buchanan Production and Equitable, have  
5 reached is that as part of the consideration that we have  
6 agreed to pay Equitable for this purchase of their interest,  
7 we have agreed regardless of the terms of a Board order to  
8 honor their lease terms vis a vis the Rogers'. But our  
9 agreement was with Equitable and not with the Rogers'. I  
10 just thought I would indicate that to you. So, there should  
11 be no net dollar difference to the Rogers' dealing with  
12 Consol Energy as operator versus Equitable because we have  
13 this agreement with Equitable to protect them from litigation  
14 going down the road.

15           That said, I think we have...Jim probably needs to  
16 confirm whether or not it's accurately represented where  
17 these two companies stand. But that said, I think we've  
18 erased those problems. Mr. Johnson has indicated to us that  
19 he wants to make some objections at the end. He still has  
20 some concerns and we'll certainly, obviously, will  
21 accommodate that.

22           JIM KISER: I think his representation of the  
23 agreement between Buchanan Production and Equitable is

24

--

1 accurate. Obviously, it was important to us and the most  
2 important part was that, regardless of the fact that these  
3 units are going to be pooled units, was Consol's willingness  
4 to agree to honor all the terms and conditions of the  
5 Rogers's lease, Equitable's lessor. So, that is accurate the  
6 way that was presented and we're going to stand pat on these,  
7 too.

8 BENNY WAMPLER: Okay. Thank you.

9

10 JIM KISER

11 DIRECT EXAMINATION

12 QUESTIONS BY MR. SWARTZ:

13 Q. All right, Les, let me remind you that  
14 you're still under oath, okay?

15 A. Yes.

16 Q. Who's the applicant with regard to these two  
17 pooling applications?

18 A. Buchanan Production Company.

19 Q. Okay, are they both Oakwood I applications?

20 A. Yes, they are.

21 Q. Okay. Did you or...did you either prepare  
22 yourself, or have prepared under your supervision, the  
23 amended notices, amended application and amended exhibits  
24

--

1 with regard to both of these units?

2 A. Yes, I have.

3 Q. And, in fact, you've signed the notices of  
4 hearing and the applications?

5 A. Yes.

6 Q. Okay. Is Buchanan Production a general...a  
7 Virginia General Partnership?

8 A. Yes, it is.

9 Q. Does it have two partners who are  
10 Appalachian Operators, Inc. and Appalachian Methane, Inc.?

11 A. Yes, it does.

12 Q. Are both of those partners wholly owned  
13 indirect subsidiaries of Consol Energy, Inc.?

14 A. Yes, they are.

15 Q. Is BPC authorized to do business in  
16 Virginia?

17 A. Yes, it is.

18 Q. Who is Buchanan Production requesting be  
19 designated as operator by the Board if these applications are  
20 approved?

21 A. Consol Energy.

22 Q. Okay. Is Consol Energy, Inc., a successor  
23 in interest of Consol, Inc.?

24

--

1           A.       Yes, it is.

2           Q.       And as such, is Consol Energy, Inc. charged  
3 with the management of the Buchanan Production Company  
4 coalbed methane assets in Southwest Virginia?

5           A.       Yes, it is.

6           Q.       Is Consol Energy, Inc. a Delaware  
7 Corporation?

8           A.       Yes, it is.

9           Q.       Is it authorized to do business in the  
10 Commonwealth?

11          A.       Yes.

12          Q.       Has it registered with the DMME, and does it  
13 have a blanket bond on file?

14          A.       Yes, it does.

15          Q.       Have you listed the names of the folks that  
16 you're seeking to pool in both the amended notices of hearing  
17 and the amended Exhibits B-3?

18          A.       Yes.

19          Q.       Do you wish to add any parties as  
20 respondents today?

21          A.       No, not today.

22          Q.       Do you wish to dismiss any?

23          A.       No.

24

1                   Q.       How did you provide notice to the  
2 respondents?

3                   A.       By certified mail/return receipt requested  
4 and by publication in the Bluefield Daily Telegraph on May  
5 the 31<sup>st</sup> of 2001.

6                   Q.       And have you filed proof of mailing and  
7 proof of publication with the Board today?

8                   A.       Yes.

9                   Q.       Taking Exhibit B-31 first, would you tell  
10 the Board what interest you have acquired and what interest  
11 you're seeking to pool?

12                  A.       Yes. We have acquired 72.7375% of the coal,  
13 oil and gas, coalbed methane interest. We're seeking to pool  
14 27.2625% of the coal, oil and gas, coalbed methane interest.  
15 And we have under lease 100% of the coal below this unit.

16                  Q.       How many wells are you proposing in Exhibit  
17 B-31?

18                  A.       One.

19                  Q.       Is that well location shown on the plat?

20                  A.       Yes, it is.

21                  Q.       If you'll notice, it's in the corner.

22                  A.       It is.

23                  Q.       Is that location been surveyed?  
24



1           A.       Yes, it has.

2           Q.       Okay. And is that location inside or  
3 outside of the window corner?

4           A.       It's in the corner of the window.

5           Q.       Inside?

6           A.       Yes, inside. I'm sorry.

7           Q.       Okay, so you will not need a location  
8 exception?

9           A.       No.

10          Q.       Have you provided an estimate with regard it  
11 the cost of drilling that well?

12          A.       We have.

13          Q.       Okay.

14          A.       \$203,628.89, drilled to a total depth of  
15 2,013.10 feet. It was drilled on November the 18<sup>th</sup> of 2000.

16          Q.       And the permit number?

17          A.       4751.

18          Q.       Okay. And this is an 80 acre frac unit  
19 under Oakwood I?

20          A.       Yes, it is.

21          Q.       So, you're seeking to produce from  
22 the...produce coalbed methane from all seams from the Tiller  
23 on down, is that correct?

24

1           A.       That's correct.

2           Q.       What lease terms would you recommend to the  
3 Board for folks who might be deemed to have been leased under  
4 the terms of any Board order that's entered?

5           A.       Our standard terms are a \$1 per acre per  
6 year for a coalbed methane lease, with a five year term, with  
7 a one-eighth royalty.

8           Q.       Directing your attention to Exhibit B-3,  
9 okay.

10          A.       Uh-huh.

11          Q.       There is a percent of unit column.

12          A.       Yes.

13          Q.       And would that be percentage that the people  
14 who are being pooled should use to determine their royalty  
15 interest in the unit?

16          A.       Yes, it is.

17          Q.       And basically if we take the first example,  
18 Tract 2, the 27.125% would be multiplied times 12 1/2% and  
19 that would...that would result in the royalty interest under  
20 the Board order?

21          A.       It would.

22          Q.       Okay. If the...if someone wanted to  
23 participate in this unit, would they use that same percentage  
24

1 times the allocated cost to calculate the participation cost  
2 for them?

3 A. It would.

4 Q. And would the same percent of unit...  
5 percentage be relevant to estimating a carried interest and  
6 cost?

7 A. Yes, it would.

8 Q. Okay. Turning to unit C-32, how many wells  
9 are proposed in that unit?

10 A. One.

11 Q. Okay. And you're notice that that's up  
12 toward the Northern boundary of the drilling window, do you  
13 see that?

14 A. It is.

15 Q. Is it inside...is the location inside the  
16 drilling window?

17 A. Yes, it is.

18 Q. Okay. And is this proposed well in C-32  
19 also a frac well?

20 A. Yes, it is.

21 Q. And is it the intention to produce coalbed  
22 methane from this well from all seams from the Tiller on  
23 down?

24

--

1           A.       Yes, it is.

2           Q.       Have you provided the Board with an estimate  
3 of the cost of drilling, completing and fracturing this well?

4           A.       Yes, we have.

5           Q.       And what's that estimate?

6           A.       The cost of this well...the estimated cost  
7 of this well is \$206,705.15, to an estimated depth of 2300  
8 feet.

9           Q.       And this well, the permit has been applied  
10 for but it's kind of on hold, right?

11          A.       It is.

12          Q.       In C-32, would you tell the Board what  
13 interest you've been able to acquire and what interest you're  
14 seeking to pool?

15          A.       We've acquired 91.325% of the coal, oil and  
16 gas coalbed methane interest. We're seeking to pool 8.675%  
17 of the coal, oil and gas; and we have 100% of the coal  
18 leased.

19          Q.       With regard to both of these units, can you  
20 tell me whether or not there is a requirement for escrow?

21          A.       Yes, there's an Exhibit E in there.

22          Q.       Okay. And that explains why escrow would be  
23 required?

24

1                   A.       Yes, it is.

2                   Q.       And is the reason for escrow in both  
3 situations conflicting claims?

4                   A.       Yes.

5                   Q.       In spite of the fact that there are a number  
6 of folks named Rogers, or heirs of the Rogers, they are, in  
7 fact, to some extent in conflict?

8                   A.       It is.

9                   Q.       And that's the reason for the escrow?

10                  A.       Uh-huh.

11                  Q.       In the event ultimately these parties would  
12 enter into a royalty split agreement, that would solve that  
13 problem?

14                  A.       Yes.

15                  Q.       But until that happens, it's a problem?

16                  A.       It is.

17                  Q.       And that is what's addressed by the Exhibit  
18 E that you provided with regard to both of these?

19                  A.       It is.

20                  Q.       Recently have you received from---?

21                  BENNY WAMPLER: Let me just stop you and tell you I  
22 don't have Exhibit E. I don't know...the original for this  
23 application.

24

--

1           BOB WILSON: No, we didn't have Exhibit E put in.

2           BENNY WAMPLER: Okay.

3           LESLIE ARRINGTON: We'll submit that.

4           MARK SWARTZ: I can give you---.

5           LESLIE ARRINGTON: I thought we had submitted  
6 those.

7           MARK SWARTZ: Let me give you one and we'll submit  
8 more. Why don't you hand that one up there to...is there  
9 one?

10                   With regard to C-32, we have recently received from  
11 Mr. Whitt, who is here today, who is an engineer for the  
12 Rogers, a letter raising some questions with regard to  
13 property lines concerning C-32, and I think we made ...we  
14 got...I think it was faxed to us on June 13th, if I'm not  
15 mistaken, and what we have indicated to Mr. Whitt and Mr.  
16 Johnson this morning, is that we believe that our property  
17 lines as platted are correct. We will certainly consider the  
18 additional information that they have provided us with, with  
19 regard to two of the Rogers tracts in the event that we are  
20 persuaded that their mapping is accurate, we have agreed to  
21 file, you know, our supplemental order that will solve that  
22 problem. And in the event that we can't agree, we'll solve  
23 the problem by escrowing the disputed area. I just wanted to

24

--

1 note for the record there is...there has been a question  
2 raised with regard to mapping in the C-32 unit on June 13th  
3 and that we are going to address that and either resolve it  
4 or escrow.

5 Q. Mr. Arrington, the last couple of things I  
6 would have for you, with regard to both of these units, B-31  
7 and C-32, is it your opinion that the plan of development  
8 that's disclosed by the applications and the plats that are  
9 set forth in those applications is a reasonable method or  
10 reasonable plan to develop coalbed methane from under these  
11 two units?

12 A. Yes, it is.

13 Q. And would you recommend that these  
14 applications be approved by the Board so that they can  
15 protect the correlative rights of all of the owners, both  
16 those who have leased and those who have yet...who have not  
17 as yet leased?

18 A. Yes, it is.

19 Q. That's all I have.

20 DONALD JOHNSON: Jim, you got anything?

21 JIM KISER: No, go ahead.

22 DON JOHNSON: First, I want to address the issue  
23 about the escrow and just be clear it's on the record, and I  
24

--

1 want to be sure that everybody understands what's going on.  
2 All of the coal on the Rogers properties has been leased to  
3 Island Creek Coal Company. I'm talking about the below  
4 drainage coal, and that is a 100% lease, basically. The oil  
5 and gas has all been leased to what is now Equitable  
6 Production through their Eastern States subsidiary. That has  
7 all been leased, 100% on the Rogers property. The coalbed  
8 methane, the Lon B. Rogers Bradshaw Trust No. 1 and Lon B.  
9 Rogers Bradshaw Trust No. 2 entered into a coalbed methane  
10 lease with Equitable Production Company. The only parties  
11 that have leased coalbed methane as a separate item, you  
12 know, as a separate item, would be the parties listed in  
13 Schedule E 2I Oil and Gas Fee Ownership, and it's listed as  
14 the Pamela Paulus, et al. I understand Equitable is  
15 proceeding to get leases from these folks, but at any rate,  
16 that is the only conflict which is only a small percentage of  
17 the ownership in these tracts. And so we want to be sure...I  
18 mean the whole purpose of all this is to make sure that my  
19 client gets paid and I can assure you that is all we want to  
20 see happen here today, is to make sure my client gets  
21 properly paid as per its lease agreements.

22               For the record, I'm going to state the objections  
23 and we've agreed that this is how this will be handled. I

24

--



1 will state my client's objections on the record. Again, the  
2 Fon Rogers trustee is the trustee of Lon B. Rogers Bradshaw  
3 Trust No. 1, which is the oil and gas ownership trust. Trust  
4 No. 2, Lon B. Rogers Bradshaw Trust No. 2 is the coal and  
5 surface ownership trust.

6           For purposes of the record in this case, with  
7 regard to the well C-32, which has been platted, the proposed  
8 well violates Virginia Code Section 45.1-361.17b.2, as same  
9 as to be located within 500 feet of the boundaries of trust  
10 mineral lands, and no statutory or contractual unit has been  
11 formed. Certainly, if the unit is formed today, then that  
12 objection won't have any validity.

13           The next item is that for both B-31 and C-32, the  
14 proposed well work is unreasonable, arbitrary exercise of the  
15 well operator's right to explore for market and produce  
16 coalbed methane gas.

17           For both C-32 and B-1, the proposed well operator  
18 does not have the consent to stimulate the coal seams  
19 required by Virginia Code Section 45.1-361.29f.2 for both  
20 wells. The proposed well operator does not have the consent  
21 to stimulate the coals seams as required by Virginia Code  
22 Section 45.1-361.29f.2 from Trust No. 2 or Equitable  
23 Resources, the coalbed methane lessee for the trust.

24

--

1           And finally for both well C-32 and B-31, the  
2 proposed well is within, or the proposed wells are within  
3 2,500 feet of well C-31, which well has an approved permit  
4 from the division, approved effective April 10 of 2000, and  
5 the present application is subject to the provisions of the  
6 Virginia Code Section 45.1-361.12.

7           Also, I believe on both well...both the  
8 applications, the...or both the unit applications, the unit  
9 applications show that Ashland Exploration, Inc., now  
10 Equitable Production of Eastern States, is a lessee on the  
11 oil and gas covering the trust lands adjoining the subject  
12 proposed...are within the subject proposed units and if  
13 they're shown as 75% and it should be a 100%.

14           Also, for the purpose of the record today, for  
15 both...I'll put in two copies. I've got the information  
16 concerning the well which I previously mentioned, which is  
17 well C-31. I have the permit which has been approved by the  
18 Division. I have the well location plat which was signed by  
19 Claude Morgan of Consol, the completion report, which was  
20 signed by Mr. Arrington, for well C-31, and also the State's  
21 records regarding the production from C-31. I also have a  
22 location plat showing the locations of the various wells that  
23 I've mentioned, the three wells that I have mentioned. And I

24

--

1 ask that these documents be placed in the record for purposes  
2 of our objections today.

3 BENNY WAMPLER: Any objections?

4 MARK SWARTZ: Not to placing in the record.

5 BENNY WAMPLER: They'll be received.

6 DON JOHNSON: I've got one for each...I've got one  
7 for each. I just wanted to have those put in the record, Mr.  
8 Wampler.

9 BENNY WAMPLER: Okay.

10 (Mr. King leaves the room to take a phone call.)

11 BENNY WAMPLER: We'd ask those to be received in the  
12 record.

13 DON JOHNSON: Gentlemen, just one final comment. My  
14 client is interested in lots of well production and getting  
15 paid for that well production and I think that pretty much  
16 summarizes our position in this case.

17 BENNY WAMPLER: Let me ask you for clarification and  
18 everything. We have the Fon Rogers, II, Trustee---.

19 DON JOHNSON: Yes, sir.

20 BENNY WAMPLER: ---as coal fee owners listed here.

21 DON JOHNSON: Yes, sir.

22 BENNY WAMPLER: And that's correct.

23 DON JOHNSON: Yes, sir.

24

--

1           BENNY WAMPLER: And Lon B. Rogers, II is the oil and  
2 gas fee owner.

3           DON JOHNSON: All right. On portions of these there  
4 are what we call the cousins, which is the Poulos, et al  
5 group. They own, I think, 25% of the oil and gas.

6           BENNY WAMPLER: I understand.

7           DON JOHNSON: Their interest is contained in an oil  
8 and gas lease, but not a coalbed methane lease.

9           BENNY WAMPLER: Okay.

10          DON JOHNSON: So, that interest is consumed...we  
11 have coal leases to Island Creek, Mr. Wampler, that cover a  
12 100%. We have oil and gas leases to Eastern States, which is  
13 Equitable Production. We have a 100% as far as those oil and  
14 gas interests. So, the only thing that the Poulos, et al  
15 group has not executed is a coalbed methane lease as a  
16 separate document.

17          BENNY WAMPLER: Okay. Thank you.

18          MARK SWARTZ: But to pursue the question that I  
19 think you started to raise and may have got headed off. The  
20 coal is owned by one trust, the oil and gas is owned by  
21 another trust and some other folks. Unless the two trusts  
22 can enter into a royalty split agreement, they're in conflict  
23 because they're a separate ownership.

24

--

1           Mr. Johnson and his client have the ability,  
2 presumably, to cure that. We don't have a lease with them.  
3 We are not getting an assignment of these leases. We have no  
4 privity with these people. You know, from a payment  
5 standpoint, we've agreed with Equitable to honor payment  
6 terms. But we don't have a direct agreement with Rogers.  
7 So, if they want to get paid, they can solve the problem by  
8 filing a royalty split agreement with us and with you all,  
9 but, you know, that hasn't happened. So, they're in  
10 conflict.

11           DON JOHNSON: I think that Mr. Swartz is forgetting  
12 one important issue and that is that both trusts have a  
13 signed a coalbed methane lease covering these properties.

14           MARK SWARTZ: We're not a party to that lease and  
15 we're not going to be.

16           DON JOHNSON: I know you're not a party to the  
17 lease, but Equitable Production, who you have made  
18 arrangements with, is a party to that lease as the lessee.

19           So, the trusts have, in fact, consented to  
20 Equitable Production Company pursuing the development of  
21 coalbed methane and consented to stimulate other issues that  
22 are set forth in that lease agreement. I would hate to see  
23 us have to rummage around and grab paperwork together to  
24

1 prevent money from being escrowed. I look at escrow as, you  
2 know, God's gift to banks. I don't think, you know, that we  
3 need to have any of this money escrowed.

4               Clearly, I guess it will be the opinion of your  
5 counsel as to whether or not it needs to be escrowed. But  
6 what I'm saying is that we have already entered into a  
7 coalbed methane lease so we don't have to worry about escrow  
8 or anything else. We've got the coal and the oil and gas  
9 merged with the exception of 25% of the oil and gas that we  
10 don't represent. So, there is no...there is no issue there.  
11 I'm hopeful that Equitable Production will obtain a lease  
12 from the other 25% and we won't have these issues at all  
13 going down...or going forward.

14               MARK SWARTZ: If we had a lease from your clients,  
15 we wouldn't be trying to pool them today.

16               DON JOHNSON: Right.

17               MARK SWARTZ: So, we're here to pool. Our  
18 relationship, if the Board grants this application, is going  
19 to be because of a pooling order and we have an obligation to  
20 tell the Board when people are in conflict and money needs to  
21 be escrowed and this is our position. You don't have to  
22 agree with me, but it seems to me---.

23               DON JOHNSON: I don't agree.

24

--

1           MARK SWARTZ: I'm not talking to you. But it seems  
2 to me to be the reality.

3           DON JOHNSON: I'm not talking to you either.

4           MARK SWARTZ: And so that you're going to need to  
5 make some kind of judgment, you know, as to whether or not  
6 this is the reality that you're faced with in a pooling  
7 context. And you know, Mr. Johnson, you know, has said what  
8 he has said and can do whatever he chooses. But, you know,  
9 we need to tell...we feel like we need to tell you, when in a  
10 pooling, folks are in conflict and we're passing that  
11 information along to you so you're aware of the potential  
12 problem.

13          BENNY WAMPLER: For the record, I'm not going to ask  
14 anything else or say anything else until Mr. King gets back  
15 in here because I don't have a quorum. But what we have is  
16 on record.

17           (Mr. King returns to the meeting.)

18          CLYDE KING: I'm sorry, Mr. Chairman.

19          BENNY WAMPLER: Okay. Do you have anything?

20          SANDRA RIGGS: I think as I hear what you all are  
21 saying, is you're here purely on a pooling and not taking an  
22 assignment of the lease.

23          MARK SWARTZ: Because they won't give us one.

24

--

1 Right.

2           SANDRA RIGGS: On a straight pooling and that you're  
3 naming them as a conflicting parties. And, therefore, it's  
4 your position under the pooling statutes that until such time  
5 as we either have an order of the Court or an agreement  
6 amongst the parties, it must be escrowed.

7           Mister Johnson, your position is somehow that  
8 because you've entered in a coalbed methane lease for both  
9 trusts that somehow those titles merged.

10           DON JOHNSON: Yes.

11           SANDRA RIGGS: Not withstanding the fact you don't  
12 have a lease with the operator?

13           DON JOHNSON: We don't have a lease with the  
14 operator. We have a lease with an operator who has been  
15 pooled.

16           SANDRA RIGGS: But not the operator that's pooling  
17 in this instance.

18           DON JOHNSON: No, but an operator who is being  
19 pooled, whose lease is being pooled.

20           MARK SWARTZ: We don't pool leases. You can  
21 participate or not. We're buying them out.

22           SANDRA RIGGS: Well, I understand what the issue...  
23 do you understand what the issue is?

24

--



1           BENNY WAMPLER: Yeah, I understand. They purchased  
2 the lease and---.

3           MARK SWARTZ: No.

4           SANDRA RIGGS: Well, they're saying they didn't.

5           BENNY WAMPLER: And then purchased...purchased it.

6           MARK SWARTZ: We bought them out of their lessor  
7 position, right.

8           BENNY WAMPLER: Right. Yeah, they didn't purchase  
9 the lease.

10          SANDRA RIGGS: Okay.

11          MARK SWARTZ: Because we can't. It won't be...they  
12 won't allow an assignment.

13          BENNY WAMPLER: I understand. I understand.

14          SANDRA RIGGS: Okay.

15          JIM KISER: With the agreement that even though  
16 these are pooled units, they'll honor the terms and  
17 conditions of our lease with the Rogers.

18          MARK SWARTZ: But our agreement is only with you to  
19 protect you from potential litigation.

20          JIM KISER: Well, at this time, it's only with us.

21          MARK SWARTZ: Right. Well, I mean, they can always  
22 work it out. But, you know---.

23          DON JOHNSON: I would certainly like to find out  
24

1 from your counsel and be sure that we don't have any money  
2 escrowed. Again---.

3 SANDRA RIGGS: Well, what would be the impediment to  
4 your clients---?

5 DON JOHNSON: There is really none. I guess, I'm  
6 saying---.

7 SANDRA RIGGS: ---reaching---?

8 DON JOHNSON: ---that there really isn't any---.

9 SANDRA RIGGS: Presenting an agreement to the Board  
10 to avoid escrow.

11 DON JOHNSON: I mean, what...you know, really, I  
12 guess what I'm saying is I don't see the purpose in doing  
13 that since we have already agreed that.....the oil and gas  
14 and coal have agreed to a coalbed methane lease. What Mr.  
15 Swartz is saying is that lease doesn't mean anything. He is  
16 saying, you know, as far as he's concerned, it doesn't mean  
17 anything.

18 I'm saying to you that, yes, the parties have  
19 already entered into a coalbed methane lease. They've  
20 already joined their interest together for purposes to  
21 develop the coalbed methane.

22 So, that's...I guess, that's the difference of  
23 opinion. And, Mr. Swartz and I respect each other's opinion,

24

--

1 I'm sure. But I feel like why should we go through all this  
2 additional paperwork just to---.

3 SANDRA RIGGS: Well, I think the statute as amended  
4 last year requires one of two things for this Board to pay  
5 out of escrow. And that is either an agreement amongst the  
6 conflicting...the named conflicting claimants or an order of  
7 the Court. I can pull that. So, it seems to me that once  
8 they name you as conflicting and this Board acts on the  
9 pooling order, then it sets up a scenario where the Board has  
10 to be presented with one of two things, either a Court order  
11 that resolves the conflict or an agreement between the named  
12 conflicting parties, which you control both sides.

13 DON JOHNSON: Well, obviously...yeah, right. Well,  
14 obviously, I think there is an agreement.

15 SANDRA RIGGS: Now, the conflicting...the payment...  
16 the escrow provision I see as a total separate issue to the  
17 issue of honoring the terms of the lease over the other side  
18 agreement that you all have with respect to the lease itself.

19 MARK SWARTZ: Right.

20 SANDRA RIGGS: This just has to do with---.

21 MARK SWARTZ: I mean, I'm just telling you that for  
22 information.

23 SANDRA RIGGS: ---the mechanics of administering  
24

1 the payment once it's calculated and is to be paid out. And  
2 that to me...I mean, the way we've always handled this is we  
3 just get in an agreement between your two trusts that says,  
4 "pay us out however and it's a done deal." I mean, we avoid  
5 escrow that way and it meets the requirements of the statute  
6 that says once the conflicting claimants reach an agreement  
7 and present it to the Board, then we'll pay according to your  
8 agreement, whatever it is, and it doesn't have to be  
9 complicated. I mean, it's whatever you instruct us to do,  
10 basically. And at that point, we eliminate the requirement  
11 for escrow and direct the operator to pay direct according to  
12 your instructions.

13 DON JOHNSON: Certainly if this needs to be done, we  
14 want it done in advance of any order being entered because we  
15 don't want any money escrowed.

16 SANDRA RIGGS: And they do that all the time.  
17 They...many times they have the attached right to the  
18 application who the---.

19 DON JOHNSON: I want to see it happen.

20 SANDRA RIGGS: ---who...you know, who has presented  
21 them with an agreement for resolution of apparent conflicts  
22 and it never goes into escrow. We never set the escrow up to  
23 begin with.

24

--

1           MARK SWARTZ: As long as we get an agreement before  
2 the supplemental order is entered, it will---.

3           SANDRA RIGGS: It's usually about ninety days maybe.

4           MARK SWARTZ: ---solve...the problem can solve  
5 itself.

6           SANDRA RIGGS: Yeah.

7           BENNY WAMPLER: Okay, any...any questions from  
8 members of the Board.

9           JIM KISER: Because there will be no money paid out  
10 before that?

11          MARK SWARTZ: Right.

12          BENNY WAMPLER: Is there a motion?

13          MASON BRENT: I move that we approve the  
14 application.

15          BENNY WAMPLER: We have a motion to approve the  
16 application. Is there a second?

17          CLYDE KING: Second.

18          BENNY WAMPLER: Motion and second. Any further  
19 discussion?

20                (No audible response.)

21          BENNY WAMPLER: All in favor, signify by saying yes.  
22                (All members signify yes by Max Lewis.)

23          BENNY WAMPLER: Opposed, say no.  
24  
~

1           MAX LEWIS: Abstain.

2           BENNY WAMPLER: One abstention. You have approval.

3    Thank you. Mr. Johnson, you'll get a copy of the order and

4    then you---.

5           SANDRA RIGGS: The proposed order, I'll send out to

6    you.

7           DON JOHNSON: Okay.

8           BENNY WAMPLER: The next item on the agenda is

9    reconvening of docket for unit P-308. Today's docket number

10   VGOB-94-10/24-08...I'm sorry, 0481-02. We'd ask the parties

11   that wish to address the Board in this matter to come forward

12   at this time.

13          JIM KISER: Mr. Chairman and members of the Board,

14   Jim Kiser on behalf of Equitable. It's my understanding, I

15   talked to Mr. Stout, Henry Keuling-Stout, about 3:30

16   yesterday afternoon and he was in the process then of

17   dictating a letter asking once again that this be continued.

18   He did receive all the information he asked for from Melanie

19   Freeman at Equitable and he's happy with that. But

20   apparently what he got from the bank, and/or Virginia Gas,

21   was not suitable. As far as I know, he wants it continued

22   again and we don't have any problems with that.

23          BOB WILSON: Mr. Chairman, we received a letter

24

1 addressed to you at the Division of Gas and Oil yesterday  
2 afternoon about 5:20, actually, from Mr. Keuling-Stout,  
3 stating that he did wish to continue both the docket number  
4 94-10/2441 and 93-19/3313; stating that he had received  
5 information from Equitable on the P-308 unit, but that it  
6 came back on a fax and it was unreadable so that he couldn't  
7 process that properly and that he has not yet gotten the  
8 complete information that he desires from the banks relative  
9 to the EH-108 unit and is asking for a continuance to have  
10 time to gather that historical information and match  
11 basically the interest paid on a monthly basis with the  
12 deposits that have been made and come up with a final total.  
13 This letter was faxed to me and to folks of Virginia Gas. I  
14 don't think you folks got a copy of that.

15 JIM KISER: I didn't see it, no.

16 BOB WILSON: We have copies of this letter here if  
17 anybody wants to look at it now. He has asked for, and as I  
18 understand you have no objection to it, Virginia Gas has said  
19 they have no objection to a continuance on it.

20 JIM KISER: We sent him a more legible copy by Fed-  
21 Ex that he should have had by yesterday.

22 BENNY WAMPLER: Any objections by members of the  
23 Board to continuing this.

24

--

1           MASON BRENT: I object.

2           JIM KISER: Equitable amount in escrow is \$172.00

3           BENNY WAMPLER: \$172?

4           JIM KISER: Yeah.

5           SANDRA RIGGS: And the other one is an internal

6 escrow.

7           JIM KISER: Ours was internal.

8           BOB WILSON: Not that is---.

9           SANDRA RIGGS: Yours is the internal and the other

10 one---?

11           JIM KISER: Ours is internal.  Theirs is a bank

12 escrow.

13           SANDRA RIGGS: So, theirs does not involve

14 reconciliation of the bank records?

15           JIM KISER: No, it just involves how much interest

16 we're going to pay him---?

17           SANDRA RIGGS: Right.

18           JIM KISER: ---and we've offered him \$50 versus

19 going back and calculating 5 1/2% per month, which would end

20 up being like \$36 and take up probably a half of some

21 employees's time.

22           BOB WILSON: The...apparently the records that he's

23 wanting to examine in more detail relative to the historical

24



1 deposits in the EH-108 unit, he needs access to the bank  
2 records that go back to, I believe, 1993 and we have invited  
3 them, of course, to come and look at our records. But most  
4 of them are still with the auditor who is auditing the  
5 account for that period of time. So, there's some hang up  
6 there. I don't think they have progressed yet to the point  
7 of actually looking at individual balances and deciding if  
8 they agree.

9           JIM KISER: We thought we were ready to go this  
10 time.

11           MARK SWARTZ: You might be.

12           BENNY WAMPLER: He may be ready to go. We haven't  
13 dismissed it. (Inaudible) a continuance.

14           (Board members confer among themselves.)

15           MARK SWARTZ: Is Brad out there, Don?

16           DON HALL: He left here earlier.

17           BENNY WAMPLER: It's dangerous to leave without the  
18 Board making a decision.

19           MARK SWARTZ: I never turn my back on you guys, you  
20 know.

21           BENNY WAMPLER: We have heard them when you're not  
22 here before.

23           BOB WILSON: A smart man.

24

--

1           SANDRA RIGGS: Well, it's my understanding, and I  
2 wish they were here to confirm this, that everything in  
3 escrow for EH-108 gets disbursed. It is what it is. Will  
4 there be anything left once...he represented all the  
5 Anderson...Mary Anderson, Hazie and Chrissy Anderson who are  
6 the three---.

7           BOB WILSON: I've forgotten if it's all disbursed or  
8 not. It seems to me that the only conflict had to do with  
9 that disputed title and once the cloud was removed from that,  
10 then I think the...whatever the contents of the escrow  
11 account are go to those claimants. Now, it has been so long  
12 since we first got into this, I don't remember. As I  
13 remember, the only conflict there was that cloud which the  
14 Court settled.

15           SANDRA RIGGS: Right.

16           BENNY WAMPLER: And it was continued last month.  
17 Were there any instructions? Did we send them a signal that  
18 we were going hear it? Do you recall?

19           MASON BRENT: I'd have to look at the record. My  
20 memory is not that good. I remember being disappointed.

21           BENNY WAMPLER: We can do one of...one of three  
22 things, I guess. We can go ahead and hear it and make a  
23 decision in the absence of the parties, or we can continue  
24

1 with an affirmation that it will not be continued again.

2 CLYDE KING: We continued it once, haven't we?

3 BENNY WAMPLER: We've continued it---.

4 SANDRA RIGGS: About three times.

5 BENNY WAMPLER: ---about three times.

6 CLYDE KING: That's enough.

7 MASON BRENT: More than once.

8 CLYDE KING: Isn't it?

9 MASON BRENT: I would---.

10 JIM KISER: What is his hold up? Is he just still  
11 trying to make sure that everything that's supposed to be in  
12 there is in there? Reconcile the bank's records---?

13 BENNY WAMPLER: Well, he's saying---.

14 SANDRA RIGGS: He wants to go all the way back into  
15 production records.

16 BOB WILSON: Yes. From my understanding from  
17 talking to Mr. Keuling-Stout, he and his clients want to go  
18 by on a month by month basis and match the amount deposited  
19 and an interest amount for that month and get a final column  
20 and then have all of that add up to the total that's in the  
21 bank at this time. They want to assess every deposit that  
22 has been made into the bank.

23 JIM KISER: They want to reconcile it. Yeah, they  
24

1 want to reconcile it.

2           BENNY WAMPLER: Well, for example, he says, "Though  
3 the report from the bank shows deposits only from January of  
4 2000 through April of 2001, one of the documents supplied to  
5 me by Virginia Gas," and I'm quoting here, "shows payments to  
6 First Union Bank extending back to January the 10<sup>th</sup> of 1997."  
7 So, apparently he does have---.

8           JIM KISER: (Inaudible).

9           BENNY WAMPLER: ---you know, some discrepancies  
10 he's dealing with for whatever reason.

11          JIM KISER: From the first escrow agent?

12          BENNY WAMPLER: Yes.

13          (Board members confer among themselves.)

14          BENNY WAMPLER: Are you going to make a motion?

15          MASON BRENT: I was.

16          BENNY WAMPLER: Okay.

17          MASON BRENT: I would move that we grant the  
18 continuance, but that we commit to hear this next month for  
19 whatever.

20          BENNY WAMPLER: Okay. All right. We have a motion  
21 to do this one last continuance and we'll hear this case next  
22 month.

23          CLYDE KING: Regardless.

24

--

1           BENNY WAMPLER: Regardless.

2           CLYDE KING: I second it.

3           BENNY WAMPLER: The motion is seconded. Any further  
4 discussions?

5           MASON BRENT: I trust this will be communicated---.

6           BENNY WAMPLER: Yes. We'll ask Mr. Wilson to write  
7 him a letter and let him know that this will not be continued  
8 again. All in favor, signify by saying yes.

9           (All members signify yes.)

10          BENNY WAMPLER: Opposed, say no.

11          (No audible response.)

12          BENNY WAMPLER: Continued. The next item on the  
13 agenda is the Gas and Oil Board will consider a petition from  
14 Pocahontas Gas Partnership for pooling of a coalbed methane  
15 unit identified as AV-116. This is docket number VGOB-01-  
16 01/16-0855. We'd ask the parties that wish to address the  
17 Board in this matter to come forward at this time.

18          MARK SWARTZ: Mark Swartz and Les Arrington on  
19 behalf of Pocahontas Gas Partnership.

20          BENNY WAMPLER: I'll just ask you folks to identify  
21 yourselves for the record, please.

22          ANDY DYE: Andy Dye.

23          TIVIS BROWN: Tivis Brown.

24

1           BENNY WAMPLER: You may continue, Mr. Swartz.

2           MARK SWARTZ: Mr. Chairman, I would ask that you

3 also call AW-116, which is docket number eight, which

4 involves many of the same people, and presumably the same

5 issues.

6           TIVIS BROWN: We're here.

7           BENNY WAMPLER: Okay. Any objections to that?

8           (No audible response.)

9           BENNY WAMPLER: Okay, we'll also go ahead and call

10 the petition from Pocahontas Gas Partnership for pooling unit

11 identified as AW-116. This is today's docket number VGOB-01-

12 01/16-0858. We'd ask the parties that wish to address the

13 Board in this matter to come forward at this time.

14           MARK SWARTZ: Mark Swartz and Les Arrington on

15 behalf of Pocahontas Gas Partnership.

16           BENNY WAMPLER: I'll get you gentleman to state your

17 name for the record one more time because I've called the

18 other one, too.

19           ANDY DYE: Andy Dye.

20           TIVIS BROWN: Tivis Brown.

21           BENNY WAMPLER: Thank you very much.

22           TIVIS BROWN: I'd like to say to the Board and to

23 the Gas Partnership people and Consol that I'm hard of

24

1 hearing. Sometimes you might have to ask me a question or  
2 something twice.

3 BENNY WAMPLER: Okay. You just let us know. We'll  
4 make sure we do that.

5

6 LESLIE K. ARRINGTON  
7 having been duly sworn, was examined and testified as  
8 follows:

9 DIRECT EXAMINATION

10 QUESTIONS BY MR. SWARTZ:

11 Q. Les, I will remind you that you're still  
12 under oath, okay.

13 A. Yes.

14 Q. The applicant on both of these applications  
15 is whom?

16 A. Pocahontas Gas Partnership.

17 Q. Did you either prepare, or have prepared  
18 under your direction, the amended notices of hearing and the  
19 applications and the related exhibits with regard to this two  
20 pooling applications?

21 A. Yes, I did.

22 Q. Okay. And these pooling applications both  
23 concern units in the Middle Ridge Field, is that correct?

24

--

1                   A.       They do.

2                   Q.       Okay. And the unit sizes are slightly

3 different because we must have one unit on the periphery

4 if...directing your attention to the plat. For AV-116, what

5 is the acreage of that unit?

6                   A.       50.2 acres.

7                   Q.       Okay. And with regard to the other unit,

8 it's the standard size of 58.7 acres, is that correct?

9                   A.       Yes.

10                  Q.       Okay. How many wells are proposed in each

11 of these Middle Ridge units?

12                  A.       One.

13                  Q.       And are both of the proposed wells within

14 the drilling windows?

15                  A.       Yes, they are.

16                  Q.       Okay. With regard to the applicant, is

17 Pocahontas Gas Partnership a Virginia General Partnership?

18                  A.       Yes, it is.

19                  Q.       Does it have two partners who are

20 Consolidation Coal Company and Conoco, Inc.?

21                  A.       Yes, it does.

22                  Q.       Okay. Who is Pocahontas requesting be

23 appointed as designated operator in the event that these

24



1 units are pooled?

2 A. Pocahontas Gas Partnership.

3 Q. Okay. Is Pocahontas Gas Partnership  
4 authorized to do business in the Commonwealth, has it  
5 registered with the DMME, and does it have a blanket bond on  
6 file?

7 A. Yes, it does.

8 Q. Okay. This unit was originally...the  
9 pooling requests for these two units were originally filed  
10 for the January hearing. Do you recall that?

11 A. That's correct.

12 Q. And they've been continued basically for  
13 five months, right?

14 A. They have.

15 Q. Okay. And what's the explanation for that?

16 A. Well, we've continued to try to identify all  
17 the, I believe, Dora Dye heirs. We've had a person pretty  
18 much assigned to this project along with different other  
19 projects trying to identify heirs. He sits...he just sits  
20 there at the telephone making phone calls.

21 Q. Okay.

22 A. We follow up finding what we can in the  
23 Courthouse, what is of record, and we go from there. To

24

--

1 date, this is the best job that we can set forth.

2 Q. Okay. The...just directing your attention  
3 to AW-116 and the amended notice of hearing and the exhibits  
4 attached to that, I see that Exhibit B-3 was modified as of  
5 June the 8<sup>th</sup>.

6 A. It was.

7 Q. And with regard to AV-116, we've got Exhibit  
8 B-3 that was modified as of May the 31<sup>st</sup>, correct?

9 A. It was. That's correct.

10 Q. Have you submitted the most current and  
11 complete information that you have to the Board?

12 A. We have.

13 Q. Okay. If people should turn up today with  
14 further information, will you include that information in any  
15 supplemental orders?

16 A. Any additional information, we would be more  
17 than happy to include in any subsequent Board order or  
18 supplemental order.

19 Q. Okay. Who is the fellow that has been  
20 working on this in your offices?

21 A. I can reference his first name only.

22 Q. Okay.

23 A. It's Smokey.

24

--

1 Q. Smokey?

2 A. Yes.

3 Q. Okay. Now, with regard to the amended

4 notices and the folks that you've listed, have you listed in

5 the amended notices all of the people that you have been able

6 to identify that need to be named as respondents?

7 A. Yes, we have.

8 Q. Okay.

9 A. And we may have listed people there that

10 don't need to be listed. But we don't know that. So, we

11 listed them.

12 Q. Okay. As possible claimants?

13 A. Right.

14 Q. Okay. For the...have you listed the folks

15 both in the amended notice of hearing and in the amended

16 Exhibit B-3?

17 A. We have.

18 Q. Okay. To the extent that you have addresses

19 for these people, have you mailed to them?

20 A. We have.

21 Q. Have you filed proof of mailing with the

22 Board today with regard to folks that you have addresses for?

23 A. We have.

24

1           Q.       Okay. For folks that you did not have  
2 addresses for or to flush further potential claimants out,  
3 have you published?

4           A.       We did.

5           Q.       Okay. Tell us about that.

6           A.       We published it in the Bluefield Daily  
7 Telegraph on April the 18<sup>th</sup>.

8           Q.       Okay. And that would be with regard to both  
9 units?

10          A.       That was AW-116, I'm sorry.

11          Q.       Okay. And with regard to the other unit,  
12 AV-116?

13          A.       Let me get to the publication. I'm sorry.  
14 (Mr. Arrington reviews his notes.)

15          A.       Okay. June the 13<sup>th</sup> for AV-116.

16          Q.       Okay.

17          A.       And I did pick out the wrong one. And it  
18 also was June the 13<sup>th</sup> in the Bluefield Daily Telegraph for  
19 AW-116.

20          Q.       Okay. And what you would have published...  
21 so, you published more than once with regard to both of these  
22 units?

23          A.       Oh, we have.

24

1                   Q.       Okay. And have you filed all of the proofs  
2 of publication with the Board?

3                   A.       We've filed that with them.

4                   Q.       The most recent publication was to give...to  
5 publish the amended notices that we're dealing with today and  
6 give those folks further notice of the new names you've come  
7 up with?

8                   A.       We did.

9                   Q.       Okay. And that's what was published most  
10 recently?

11                  A.       Yes.

12                  Q.       And my assumption is that you published in  
13 December as well?

14                  A.       We did.

15                  Q.       And then in April, as you've just indicated?

16                  A.       We have.

17                  Q.       And now again in June?

18                  A.       Yes.

19                  Q.       Okay. Do you...today, do you have any  
20 information that would cause you to add additional people?

21                  A.       No.

22                  Q.       Okay. Do you have information today that  
23 would cause you to be able to say some of the folks we've  
24

1 named we definitely have ruled out as claimants?

2 A. No, I do not.

3 Q. So, you don't want to dismiss anybody today  
4 either?

5 A. No. That's correct.

6 Q. Okay. Let's look at AV-116 first and would  
7 you tell the Board what interest you have acquired and what  
8 interest you're seeking to pool.

9 A. Yes. We have acquired 82.878% of the coal,  
10 oil and gas interest, coalbed methane interest; and  
11 17...we're seeking to pool 17.122% of the coal, oil and gas,  
12 coalbed methane interest; and we have under lease 82.878% of  
13 the coal interest.

14 Q. With regard to the almost 83% of this unit  
15 that you've leased for coalbed methane, what have been the  
16 standard lease terms that you have used with negotiating with  
17 people to lease this acreage?

18 A. Our standard lease terms are a dollar per  
19 acre per year with a five year paid up lease for a coalbed  
20 methane lease, and a one-eighth royalty.

21 Q. And would you recommend those terms to the  
22 Board to be included in any order it might enter with regard  
23 to folks who could be deemed to have been leased?

24

--

1           A.       Yes, we would.

2           Q.       Okay. Now, both of these units, although

3 they're different sizes as we've already mentioned---.

4           A.       Correct.

5           Q.       ---are in the Middle Ridge I Field, is that

6 correct?

7           A.       They are.

8           Q.       And are subject to those Field Rules?

9           A.       They are.

10          Q.       And essentially those Field Rules provide

11 for frac wells?

12          A.       They do.

13          Q.       And both of these units contain frac wells,

14 one each?

15          A.       That's correct.

16          Q.       Okay. And you are seeking then, I assume,

17 to produce coalbed methane from the Jawbone I on down if the

18 Jawbone I is below drainage with regard to both of these

19 units?

20          A.       That's correct.

21               BENNY WAMPLER: Mr. Swartz, we do not have the B-3

22 that or the revised...do you have a revised Exhibit A?

23               LESLIE K. ARRINGTON: We submitted them to the gas

24

1 office.

2 BENNY WAMPLER: With the 82%? Would you give that  
3 number again then?

4 LESLIE K. ARRINGTON: Okay. For AV-116 it's 82.878%  
5 coalbed methane lease from the coal, oil and gas owner; and  
6 17.122% we're seeking to pool.

7 BENNY WAMPLER: Okay.

8 MARK SWARTZ: Okay, with regard to AW-116?

9 LESLIE K. ARRINGTON: Okay, we have under lease  
10 86.4092% of the coal, coalbed methane interest, 76.581% of  
11 the coalbed methane interest from the oil and gas owner.  
12 We're seeking to pool 13.5908% of the coal interest for  
13 coalbed methane and---.

14 BENNY WAMPLER: Repeat that, please.

15 LESLIE K. ARRINGTON: 13.5908%---.

16 BENNY WAMPLER: okay.

17 LESLIE K. ARRINGTON: ---from the coal owner; and  
18 seeking to pool 23.419% from the oil and gas owner; and we  
19 have under lease from the coal owner 86.4092% of the coal.  
20 Oh, I'm sorry, 86.2692.

21 Q. Of the coal?

22 A. Of the coal leased. I'm sorry.

23 Q. Now, with regard to these two units, have  
24

--



1 you filed Exhibits B-3?

2 A. We have.

3 Q. Okay. And there's a last column in Exhibit

4 B-3 which says "Interest in Unit", right?

5 A. That's correct.

6 Q. And does that report the percentage that

7 every person named has of acres in the unit?

8 A. Yes, it does.

9 BENNY WAMPLER: What's the date on your B-3 that

10 you're referring to?

11 MARK SWARTZ: 6/8...June the 8<sup>th</sup>.

12 BENNY WAMPLER: I don't have that either. We've got

13 4/9.

14 Q. Mr. Arrington, have these...sufficient

15 copies of these been sent to the Board?

16 A. They were.

17 LESLIE K. ARRINGTON: The last big box, I don't know

18 how long ago it was. I know it was prior to last week.

19 BOB WILSON: Yeah, I remember the submission we got

20 and I thought that it all got properly distributed and

21 everything that was in that box was put into these files, but

22 apparently if it was sent, we missed it.

23 LESLIE K. ARRINGTON: On this one right here. June

24

1 the 8<sup>th</sup> was the date, I understand.

2 BOB WILSON: I remember...I remember seeing the  
3 material, as I say, it didn't get in the file, obviously.

4 Q. Now, when you mailed the proof of mailing,  
5 did you mail the 6/8 and 5/31 exhibits?

6 A. We did.

7 Q. Just so that the folks that are listed in  
8 the notice received the updated information.

9 A. They did.

10 Q. Okay. At least to the extent they signed  
11 for their mail?

12 A. That's correct.

13 Q. Okay.

14 BENNY WAMPLER: And what we're going to need you to  
15 do is be careful and tell us what has been updated on that.

16 Q. The---?

17 TIVIS BROWN: Could we be permitted to speak at this  
18 time?

19 BENNY WAMPLER: Yes, sir.

20 TIVIS BROWN: They mentioned the meeting in  
21 January. We have never been notified of anything that  
22 pertained to these wells, I believe, until April the 5<sup>th</sup>.  
23 Why was a meeting called on these wells and talked about and  
24

1 us not notified since we own the gas, oil and mineral land  
2 adjacent to this and other land which I personally own? I'm  
3 kind of disturbed of---.

4 MARK SWARTZ: The reason nothing happened in January  
5 is because we realized we needed to do work to identify more  
6 people. So, there was nothing that happened in January, at  
7 our request.

8 BENNY WAMPLER: Yeah, we haven't had any discussion  
9 on this at all until today except for the granting of the  
10 continuances until they notified additional parties.

11 TIVIS BROWN: I realize that. We've had two. We was  
12 called over here two times before where we've had a  
13 discontinuance which I think they've done a good job of  
14 reaching out to people. I'll have to admit to that. But  
15 there's some more irregularities which I will mention after  
16 they get done talking. I hope to not interrupt them any  
17 more.

18 BENNY WAMPLER: Continue, Mr. Swartz.

19 Q. With regard to Exhibits B-3, just from a  
20 forming content in a general sort of way, do you report the  
21 acres opposite everyone's name? Are the number of acres that  
22 their tract may be in the units?

23 A. We do.

24

--

1                   Q.       Okay. And then do you take that acreage and  
2 divide it by the number of acres in the unit?

3                   A.       Yes, we do.

4                   Q.       Okay. And that's what generates this  
5 interest in unit percentage which is in the last column,  
6 correct?

7                   A.       Correct.

8                   Q.       So, if somebody wanted to know what their  
9 percentage interest in the unit was, they would just look at  
10 that last column and that would tell them?

11                  A.       It would.

12                  Q.       Okay. If they wanted to know what amount of  
13 money they would have to come up with to participate in the  
14 unit, would they take that percentage times the cost  
15 estimate?

16                  A.       They would.

17                  Q.       Okay. And with regard to AW-116, what is  
18 the cost estimate for the one well?

19                  A.       \$216,269.12 drilled to a total depth of  
20 2,502 feet.

21                  Q.       Does that well have a permit yet?

22                  A.       Yes, it does. It's 4627.

23                  Q.       Is the well drilled?

24

--

1           A.       Yes, it is.

2           Q.       Has it been fraced?

3           A.       Yes, it has.

4           Q.       Okay. So, to calculate the participation

5 dollars and cents that you would have to pay to participate,

6 you would take your percentage from B-3 under the interest in

7 unit column, multiply that times the dollars and that would

8 be the check that you would have to write to the operator to

9 become a partner in the well?

10          A.       That's correct.

11          Q.       If you didn't want to be a partner in the

12 well, but you wanted to be carried and back into an interest

13 in the well after some period of time, would you use the same

14 percentage times the same dollars and multiply it times 200

15 or 300%?

16          A.       That's correct.

17          Q.       Okay. And that would give your carried

18 interest?

19          A.       It would.

20          Q.       Now, if you were going to try to estimate

21 what your royalty interest might be, would you take the

22 interest in unit percentage opposite your name and multiply

23 it times 12 1/2%?

24

1                   A.       You would.

2                   Q.       And that would be your royalty share out of  
3 the well?

4                   A.       Yes.

5                   Q.       Okay. And would the same be true for AV-  
6 116---?

7                   A.       It would.

8                   Q.       ---if you take the percentages set forth in  
9 B-3?

10                  A.       Yes, it would.

11                  Q.       What is the well cost estimate for AV-116?

12                  A.       \$213,878.96 drilled to the total depth of  
13 2,470.10 feet. The permit number is 4641, and it was drilled  
14 August the 8th...28...August the 28<sup>th</sup> of 2000.

15                  Q.       Okay. Has that well been fraced as well?

16                  A.       Yes, it has.

17                  Q.       Okay. Are these well...these two wells  
18 ready to go?

19                  A.       Well, actually, they were the original wells  
20 in the Middle Ridge units.

21                  Q.       So, they're ready to go?

22                  A.       Yes.

23                  Q.       Are they hooked into the gathering system  
24

1 and awaiting pooling?

2 A. Well, actually they're producing on  
3 statewide spacing.

4 Q. Oh, okay. So, we want to pool them and  
5 include more people?

6 A. That's correct.

7 Q. Okay. Okay. So, this would essentially  
8 convert from a statewide spacing voluntary unit to a pooled  
9 unit?

10 A. It is.

11 Q. Okay. Lastly, with regard to both of these  
12 units, Mr. Arrington, is the plan for development that is  
13 shown on the plat and the well location and so forth, and the  
14 other information that's provided in these applications with  
15 regard to development, in your view, a reasonable plan to  
16 develop the coalbed methane under these two Middle Ridge I  
17 units?

18 A. Yes, it is.

19 Q. And would you recommend this plan to the  
20 Board?

21 A. Yes, we would.

22 Q. And then would you also recommend to the  
23 Board that they pool this unit to protect not only the folks  
24

--

1 that you've obtained leases from and their correlative  
2 rights, but to also protect the folks that you've been able  
3 to identify as claimants or possible claimants and the  
4 unknowns that you're concerned about?

5 A. We are.

6 Q. Okay. And so would you recommend  
7 this...that these units be pooled to protect the correlative  
8 rights of all of these folks?

9 A. We do.

10 Q. With regard to the escrow question, it looks  
11 like there is escrow required for both of these units?

12 A. It is.

13 Q. And on the one hand the reason is to escrow  
14 for unknowns and unlocateables, correct?

15 A. Uh-huh.

16 Q. And is it also true that at least with  
17 regard to AW-116, there's also escrow required for conflicts?

18 A. Yes, it is.

19 MARK SWARTZ: That's all I have.

20 ANDY DYE: Excuse me. I didn't understand the depth  
21 of well AV-116. Did you---?

22 LESLIE K. ARRINGTON: AV-116?

23 ANDY DYE: The depth.

24

--



1           LESLIE K. ARRINGTON: The depth is 2470.10 feet.  
2           ANDY DYE: Thank you.  
3           BENNY WAMPLER: Questions from members of the Board  
4 of this witness?  
5           (No audible response.)  
6           TIVIS BROWN: I'd like to speak on behalf of the Dye  
7 heirs.  
8           BENNY WAMPLER: Wait just one second and let's see  
9 if the Board has got any questions of this witness and then  
10 you can do that.  
11          (No audible response.)  
12          BENNY WAMPLER: Okay, you go ahead.  
13          TIVIS BROWN: I'd like to ask when both of these  
14 wells were permitted.  
15          LESLIE K. ARRINGTON: Well, the permit date for AV-  
16 116, permit date was 7...July the 17<sup>th</sup> of 2000. I believe  
17 what---.  
18          TIVIS BROWN: The 27<sup>th</sup> day of June of 2000?  
19          LESLIE K. ARRINGTON: This may have been a  
20 modification. Is that AV or AW?  
21          TIVIS BROWN: That's AW-116.  
22          LESLIE K. ARRINGTON: AV-116 was June---.  
23          TIVIS BROWN: Well, I asked AW---.  
24  
~

1           LESLIE K. ARRINGTON: Okay.

2           TIVIS BROWN: ---116.

3           LESLIE K. ARRINGTON: Just a second. June...it is  
4 June the 27<sup>th</sup>.

5           TIVIS BROWN: And I'd also like to ask you about AV-  
6 116.

7           LESLIE K. ARRINGTON: June...July the 17<sup>th</sup> of 2000.

8           TIVIS BROWN: Why weren't we notified when these  
9 wells were permitted?

10          LESLIE K. ARRINGTON: These wells were permitted  
11 under statewide spacing before the Middle Ridge Field units  
12 were set up and drilled and production began under statewide  
13 spacing.

14          TIVIS BROWN: Are these two wells in operation?

15          LESLIE K. ARRINGTON: They are.

16          TIVIS BROWN: Do you have an estimate of how much  
17 they produced?

18          LESLIE K. ARRINGTON: Not with me today, no.

19          TIVIS BROWN: Well, I do. Andy, do you have  
20 that---?

21          ANDY DYE: No, I don't have it.

22          TIVIS BROWN: ---handy? We picked that up to the  
23 Board...AV-116 the 12<sup>th</sup> of 2000, the numbers on it is 1,545  
24  
~

1 and down below that on down through it began the 12<sup>th</sup> of 2000  
2 and went on down through the 12<sup>th</sup> of 2001, 7,298 and I also  
3 have it on the other one.

4 LESLIE K. ARRINGTON: Okay.

5 TIVIS BROWN: And I believe that that should have  
6 been made available to us before that you people tried to  
7 have our land, which we owned over a hundred years and paid  
8 taxes on it, and drewed our interest off of our land and  
9 start pooling it. I don't think that they properly  
10 identified or notified us in the time frame that was  
11 permitted by State law to do so because they've never  
12 contacted us about anything on the Dora Dye tract of land  
13 until April of 2001.

14 BENNY WAMPLER: Have you...let me ask Mr. Arrington,  
15 do you have an internal escrow of this money that you've  
16 recouped on the well?

17 LESLIE K. ARRINGTON: I can't answer that part  
18 without...you know, I just don't have that knowledge with me.

19 TIVIS BROWN: And I further want to tell the Board,  
20 what they send us out has a different heading on it of what  
21 they have Gas Board, the Virginia Department of Mines,  
22 Minerals and Energy, than what they send us. It mentions a  
23 Litton tract which is adjacent to mine and the copy that they

24

--

1 sent out to us does not have it on it pertaining these two  
2 parts. There's something wrong there in that. Like I say,  
3 I'm not a lawyer, but there's something wrong there with them  
4 two parts. I could show the Board...I could show the Board  
5 the two things that I'm talking about here and AY-16. I'd  
6 also like to ask Mr. Arrington, those two wells AV-16...116  
7 and AW-116 is spaced 2500 feet apart.

8           LESLIE K. ARRINGTON: Okay. Let me go through  
9 several things here. First of all, these wells were  
10 permitted, drilled into production under statewide spacing  
11 and that's the reason the Dyes did not receive notice of  
12 these wells. They were not within the 500 and 750 foot  
13 radius.

14           Secondly---.

15           MARK SWARTZ: Stop. Were they in the statewide  
16 spacing units?

17           LESLIE K. ARRINGTON: No.

18           MARK SWARTZ: Okay.

19           LESLIE K. ARRINGTON: No, they were not within those  
20 radius.

21           MARK SWARTZ: Let me ask another question. By  
22 reason of these two pooling applications, are the Dye heirs  
23 being included in the revenue stream for these two wells  
24

--

1 which they would not have been included in at all under  
2 statewide spacing?

3 LESLIE K. ARRINGTON: That is correct.

4 MARK SWARTZ: So, we're here today to try to give  
5 them money that they were not entitled to under the statewide  
6 spacing?

7 LESLIE K. ARRINGTON: That's correct.

8 MARK SWARTZ: Okay. What is the statewide unit size  
9 for coalbed methane?

10 LESLIE K. ARRINGTON: It's a 500 hundred foot  
11 radius.

12 MARK SWARTZ: So, it's a circle 500 feet around the  
13 well?

14 LESLIE K. ARRINGTON: Right.

15 MARK SWARTZ: What is the spacing between wells for  
16 coalbed methane? Is it a 1,000 feet?

17 LESLIE K. ARRINGTON: A 1,000 feet.

18 ANDY DYE: We must have two different set of rules  
19 here then. I was under the understanding that the spacing  
20 between the two wells was 2500 feet and the spacing on the  
21 property owners was 750 feet. And I'd like to say at this  
22 time too, this may be a little out of order, but if I am,  
23 I'll certainly take it back because this is new to me, but

24

--

1 what they're saying they're here today is to give us money  
2 off the wells that we're producing. One reason we're here  
3 today, I don't think that a company should be allowed to  
4 lease your land that you've owned for a hundred years and  
5 paid taxes on it for \$5 an acre for ten years to do anything  
6 they want to with it. That is our complaint here today.

7 AUDIENCE: Amen.

8 AUDIENCE: Yes.

9 SANDRA RIGGS: Well, that's the bonus payment.  
10 You're talking about that plus the royalty of one-eighth  
11 royalty.

12 ANDY DYE: I understand that. I don't really have a  
13 problem with that, but I do have a problem with them being  
14 able to do anything they want to with your land and lease it  
15 whether you want to let them lease it or not.

16 SANDRA RIGGS: Well, that...that's provided by  
17 statute now.

18 TIVIS BROWN: That's seeing how we own the coal,  
19 gas, minerals and all. We don't want to tie our land up. We  
20 will enter into a lease of the coal and the gas and the oil,  
21 but they've not approached. They don't want to lease. They  
22 want to pool.

23 ANDY DYE: Well, to lease your land for ten years,

24

--

1 and like I said, I'm not a lawyer and I really don't  
2 understand this, but I'd be glad if somebody would explain it  
3 to me. It seems to me like if they lease this land for ten  
4 years, they can do anything they want to with it, but yet  
5 we're still liable for any damage they do. I mean, I might  
6 be misunderstanding it, but that's the way I understand it.

7 SANDRA RIGGS: We....you say lease your land, do you  
8 mean your gas...your gas rights?

9 ANDY DYE: The land.

10 SANDRA RIGGS: Well, they're not leasing your  
11 surface now. They're leasing your gas rights.

12 ANDY DYE: Well, now, wait a minute. Like I said, I  
13 probably didn't understand this right.

14 TIVIS BROWN: Well, it says that they will be  
15 responsible for everything that happens on the land and on  
16 the property and not in one place.

17 SANDRA RIGGS: Well, is this---?

18 BENNY WAMPLER: Let me---.

19 SANDRA RIGGS: ---well on their surface?

20 MARK SWARTZ: No.

21 LESLIE K. ARRINGTON: No.

22 TIVIS BROWN: No, it's not on it.

23 SANDRA RIGGS: The well's not on your land.

24

1           ANDY DYE: Yet. No, it's not on it yet.

2           SANDRA RIGGS: Well, with this...with regard to this  
3 application, the well is not on your surface. They are not  
4 getting any rights to your surface by virtue of these  
5 proceedings. They're seeking the right to produce the gas  
6 underlying your surface. And that's all we're talking about.

7           MARK SWARTZ: Well, we already have that right.

8           SANDRA RIGGS: Well, under statewide spacing.

9           MARK SWARTZ: Right.

10          ANDY DYE: That's the problem. We have...it seems  
11 to me like these coal companies have too many rights. I  
12 mean, I...like I said, I'm not a lawyer and I don't  
13 understand all of that, but it seems to me like if you pay  
14 taxes on a land...a piece of land for a hundred years and  
15 somebody wants to lease it and won't even give you enough to  
16 even pay your taxes on it, that don't seem fair to me.

17          SANDRA RIGGS: Well, I don't know what the  
18 calculation of your royalty would be. So, I can't, you know,  
19 judge whether it's enough to pay taxes. But it seems to me  
20 that you're separating the royalty payment from the bonus  
21 payment. You get two streams of payment. One is this up  
22 front payment that they're talking about and the other is the  
23 one-eighth royalty off of the production.

24

--



1           And what they're saying is under the statewide  
2 spacing rule, which is 45.1-361(17) which was in effect at  
3 the time they drilled the well, they had to give notice to  
4 owners within 500 feet of the well.

5           ANDY DYE: Right. Correct.

6           SANDRA RIGGS: And you were not within the 500 feet,  
7 which is why you didn't get that notice. And that the unit  
8 went out...that the distance between wells was 1,000 feet  
9 according to...for coalbed methane, which is what we're  
10 talking about here.

11          BENNY WAMPLER: For coalbed methane. That's the  
12 difference where you may be getting some confusion going.

13          ANDY DYE: Right.

14          BENNY WAMPLER: And that what they're doing...since  
15 they drilled the wells, this Board has said we need a more  
16 uniformed system of allocating royalty to make sure that  
17 everybody within this field gets their fair share, and the  
18 Board adopted the Middle Ridge Field Rules, which laid out a  
19 grid, so that instead of having these circles all over, the  
20 grid covered the entire area, set up the drilling units.  
21 And what they're saying is that they're coming back now to  
22 pool under that grid so that everybody within the square  
23 where that well is located will receive royalty and where you

24

--

1 would have not received royalty under statewide spacing.  
2 Once they put this pooling application in place, it would  
3 extend out beyond the 500 foot to pick your interest up so  
4 that you would get paid royalty off of it.

5           Then the question that the Chairman had was how do  
6 you deal with the escrow for the production from the time the  
7 well was originally drilled up until now. Whether or not...I  
8 assume they paid all the royalties out to people within the  
9 500 feet during that period.

10           MARK SWARTZ: It was...they were voluntary units.  
11 So, we paid the money. I mean---.

12           LESLIE K. ARRINGTON: And at the time...we may  
13 actually have this one in suspense, but without making a  
14 phone call, I can't answer that.

15           ANDY DYE: Well, we have no problem with that. I  
16 don't think anybody does. But the problem we have is back to  
17 this leasing it. I'm misunderstanding it, I guess. If I am,  
18 I'd sure appreciate it if you could straighten me out on it.  
19 This is for ten years. All right. Now, they don't have any  
20 wells on it right now, but next year if they decide to put a  
21 well on it, if they lease it, why can't they? I mean, what  
22 would be the reason they couldn't?

23           SANDRA RIGGS: Well, if you sign a lease giving them  
24

1 the right---.

2 ANDY DYE: Right.

3 SANDRA RIGGS: ---they could.

4 ANDY DYE: Well, that's what they're here today to  
5 get.

6 SANDRA RIGGS: No. They won't get that lease.

7 BENNY WAMPLER: No.

8 SANDRA RIGGS: What they'll get is what---.

9 TIVIS BROWN: No, they're here to pool off of them  
10 over two wells today.

11 SANDRA RIGGS: They can negotiate with you for  
12 whatever terms the two of you reach. The Board is not bound  
13 by the offer they make to you. What the Board will give them  
14 is only what the law allows. It will not give them that  
15 lease.

16 TIVIS BROWN: They have not made us no offer and I  
17 would like to show the Board the difference in the two  
18 headings with the property owner and what they have filed  
19 over at the Gas and Oil and Energy place. I can't see why  
20 that they would try to hide the pipes to the Litton place  
21 which is adjacent to my 22 acres and my three acres and our  
22 35 acres which we own the coal, gas, oil and all the mineral  
23 rights. I just can't see into that. Sir, I'm sorry about  
24

--

1 your water.

2 BENNY WAMPLER: That's all right.

3 TIVIS BROWN: If you'll look and go through this,  
4 you'll find where they mentioned a 1,000 acres from the  
5 Litton tract and on our one that they sent us, they don't  
6 mention nothing of that nature.

7 BENNY WAMPLER: This is on AW-116, for the record.

8 TIVIS BROWN: Yes, sir.

9 BENNY WAMPLER: A notice for application for permit.

10 TIVIS BROWN: If you'll put them back together for  
11 me when you get through.

12 BENNY WAMPLER: Okay. All right.

13 TIVIS BROWN: I'd like them back when the Board gets  
14 through looking at them, if that be okay. If you'd like to  
15 make a copy of them, that would be okay.

16 BENNY WAMPLER: We'll give them back to you. I'm  
17 just trying to---.

18 ANDY DYE: What's the difference in the depth of the  
19 well? Is one coal a shallow well and one a---?

20 SANDRA RIGGS: No. One---.

21 MAX LEWIS: A conventional well---.

22 SANDRA RIGGS: These wells will produce off of the  
23 coal, which is the coalbed methane gas. So, the depth is  
24

1 governed by the depth of the coal and how far they have to go  
2 down to reach the coal seams that they're going to frac and  
3 produce off of. Now, if you were producing conventional gas,  
4 the wells would be below the coal, which would be a deeper  
5 well.

6 ANDY DYE: That's what I wanted to know.

7 SANDRA RIGGS: The conventional gas. This is a  
8 coalbed methane where it's the gas that comes off the coal  
9 seams that they're producing.

10 ANDY DYE: Thank you.

11 (Board members confer among themselves.)

12 BENNY WAMPLER: Les, could you---?

13 LESLIE K. ARRINGTON: AW-116, not having the pooling  
14 application with me, I can look at the plat and probably give  
15 you the answer. But not having the well permit, both of  
16 those wells were on the Litton tract and looking at the  
17 plat...if you'll look at plat for AW-116, Tract #1, that is  
18 the Litton tract. You'll probably notice on that plat,  
19 you'll see a property line running basically North to South  
20 and then it turns kind of Southeasterly, that is the Litton  
21 tract, the boundary.

22 BENNY WAMPLER: And what's that tract number?

23 LESLIE K. ARRINGTON: Oh, it's Tract #1.

24

--

1           BENNY WAMPLER: Uh-huh.

2           LESLIE K. ARRINGTON: It will be Tract #1 and I  
3 believe Tract #2, also. It did have some surface out sales  
4 in it. I believe that's...you know, again not having that  
5 with me. I know Tract #1 is the Litton tract.

6           BENNY WAMPLER: Okay. And his question was in the  
7 material that he had, why wasn't the Litton tract  
8 identified---?

9           MARK SWARTZ: In the poolings.

10          BENNY WAMPLER: ---in the pooling?

11          LESLIE K. ARRINGTON: In the pooling. Well, the  
12 tract doesn't have to be.

13          BENNY WAMPLER: Well, I mean, I'm getting you to  
14 answer his question.

15          LESLIE K. ARRINGTON: Okay. The Litton tract is a  
16 Buckhorn Coal Company tract and I think I had it identified  
17 in the permit application as either Buckhorn/Litton tract,  
18 1000 acre tract, I believe is how it is.

19          BENNY WAMPLER: Do you understand this?

20          TIVIS BROWN: On one side of that...there's a road  
21 that goes up through the middle of that, a strip road, called  
22 the Litton road. I own one side of it and Buckhorn Coal  
23 Company owns the other side. I feel...I don't feel right by  
24

1 not being notified of where those wells were located. See,  
2 they're right adjacent to my property.

3 LESLIE K. ARRINGTON: I think on the...what he's  
4 mentioning there, I believe that road---

5 TIVIS BROWN: It calls for it in my deed.

6 LESLIE K. ARRINGTON: Well, again, I don't have the  
7 permit information here. I'm doing this from recollection.  
8 I believe the well access road was on the Western side of the  
9 property line. I'm pretty sure that's how that happened.

10 TIVIS BROWN: I believe it is. It runs---

11 LESLIE K. ARRINGTON: Yes, sir.

12 TIVIS BROWN: It runs this way. My property is over  
13 on this side.

14 LESLIE K. ARRINGTON: Yes, sir.

15 TIVIS BROWN: And the company's is over on this  
16 side.

17 LESLIE K. ARRINGTON: That's correct. And it was on  
18 the Litton tract and that's the reason you did not receive  
19 notice for it.

20 TIVIS BROWN: And I would like to say this before  
21 the Board, before you consider pooling, I think the company  
22 needs to talk to the Dye heirship. They've not properly  
23 talked to us. They've not properly identified things. But  
24

--

1 I'll agree they have, just in the last month, made a half  
2 decent attempt to get in touch with all of the owners of the  
3 heirs of this property. I think they need to talk to these  
4 people instead of having things pooled and see. We own the  
5 coal. We own the minerals. We don't want to tear our land  
6 up. We want...we'd like to sell them the coal, mineral, gas  
7 and all.

8           BENNY WAMPLER: Well, of course, you know, you're  
9 talking about private negotiations there versus what the  
10 Board can do.

11           TIVIS BROWN: Well, they've got two discontinuances  
12 here. They had it put off two times. Could we have a slight  
13 recess and we talk...these are all heirs of the Dye land over  
14 here or at least part of them. They'd fill the room if the  
15 rest of them was here, which they might be the next time. I  
16 don't know if there will ever be a next time. But I think  
17 there needs to be some more talk between the gas partnerships  
18 and Consol and the heirs of this land which we've owned for  
19 over a 100 years and paid the taxes on.

20           MARK SWARTZ: I just would make a...I don't have a  
21 problem with that. But I would make an observation so that  
22 the cards are on that table. If there is not an internal  
23 suspense, and I don't see as a lawyer any reason why there  
24



1 should be, the money is going to continue to be paid on a  
2 voluntary unit basis as opposed to under the Middle Ridge  
3 Rules and you're actually losing potential revenue by  
4 delaying. So, I just...you know, whatever. You know, it's  
5 not...we're not in a situation here where we can't produce  
6 these wells because they're already in production. They're  
7 under statewide spacing. So, we don't...I mean, I don't  
8 think Les and I, if I can step in, but we don't have an  
9 objection to more time. But I just want people in this room  
10 to understand that it's a statewide unit and different people  
11 are being paid than will be paid if this application is  
12 improved. It will be more inclusive, and, you know, you need  
13 to know that before you say put it off again, and  
14 that's...but I don't have an objection and I don't think Les  
15 does either.

16 TIVIS BROWN: Well, I said that for one reason,  
17 those wells were already in production and we've not been  
18 notified by Gas Partnership.

19 MARK SWARTZ: Right, and we've been through that.

20 SANDRA RIGGS: And that's because under statewide  
21 spacing, they only had to notify people with a 500 foot  
22 radius of the well and that's the only ones receiving  
23 payment. Under this application, that unit is expanded out  
24

1 to the Middle Ridge unit, which brings you in. So, you  
2 started getting money off of that well even though it's not  
3 located on your surface estate and you're not within the 500  
4 foot circle. So, you're going to get a benefit from this  
5 application that you didn't have under the voluntary unit.  
6 That is, now, you will get royalty. Under the old rules, you  
7 would not have gotten anything, including notice.

8           TIVIS BROWN: I don't have no problem with what  
9 you're saying. But I'm saying we have been improperly  
10 informed at the wrong time. We should have been informed  
11 that those wells were there to start with if they was going  
12 to bring us and trying to pool the mineral resources off of  
13 our property. I don't think that's right if we're not told  
14 in advance.

15           BENNY WAMPLER: Well, at the time that they did  
16 it...I'm not trying to defend them, but at the time that they  
17 did it, the Middle Ridge Rules had not been approved by this  
18 Board. We did...we set up the rules to protect the  
19 correlative rights of the individuals, which actually, as Ms.  
20 Riggs said, expanded out beyond what's in the statewide  
21 spacing under the law. So, you know, the Board was trying to  
22 reach out and protect from that standpoint. I guess, the  
23 real question goes to Mr. Swartz, back to you, about from the  
24

1 point in time the Middle Ridge Rules came into effect, how  
2 far back does this order reach? Does it reach back to it  
3 went into effect or the day you pool...you know, when you  
4 pool them?

5           MARK SWARTZ: Well, unless we've had an internal  
6 suspense, I don't think the people we've been paying are  
7 going to be real happy if we say we're coming to you for your  
8 money back. You know, I mean, if we've got that money  
9 suspended, we'll deal with it appropriately. But if we've  
10 given it to the people that were in the voluntary unit, you  
11 know, and paid it properly...and Les is telling us he does  
12 not know today whether or not we've got a suspense for any  
13 period.

14           LESLIE K. ARRINGTON: No, I don't have it with me.

15           BENNY WAMPLER: Well, don't take this wrong, but I  
16 don't think that's our problem, that part.

17           MARK SWARTZ: But you're asking me make a commitment  
18 as to money, and it may not be your problem, that I am not  
19 prepared to tell you that we're going to get money back from  
20 people we've paid.

21           BENNY WAMPLER: I'm not suggesting that.

22           TIVIS BROWN: Sir, I have another question to ask  
23 you. Why do they want to bring the methane coal off of our  
24

--

1 gas when they...off of our coal when they don't have it  
2 leased?

3 BENNY WAMPLER: Well, the law allows them to pool  
4 that. I mean, that's things that you'll have to get changed  
5 in the law.

6 SANDRA RIGGS: Under the law, they...in this  
7 proceeding, in order to get a pooling, because they don't  
8 know who owns coalbed methane. In Virginia that's a  
9 unresolved question.

10 TIVIS BROWN: Well---.

11 SANDRA RIGGS: It either belongs to the coal owner  
12 or it belongs to the gas and oil owner. So, under this  
13 process, you name both and those are conflicting claims  
14 to...now, in your case, you own fee, right?

15 TIVIS BROWN: Yeah.

16 SANDRA RIGGS: You don't have a conflicting claim  
17 because your gas hasn't been split away from your coal.  
18 Therefore, there wouldn't be an escrow of your money per se.  
19 You would get paid. You would immediately start receiving  
20 your royalty once the pooling occurs.

21 But if...say, your gas had been severed from the  
22 coal and one person owned the gas and another person owned  
23 the coal, then under this process, you would pool both and  
24

--

1 that money would go into escrow until such time as it was  
2 decide who owns the coalbed methane gas, the coal owner or  
3 the gas and oil owner. Do you see what I'm saying? That's  
4 what the law is all about, is providing a resolution of that  
5 until such time as that issue is resolved to allow production  
6 to occur, the royalty to be preserved and put into escrow,  
7 and then the gas owner and the coal owner have to resolve  
8 between themselves how they're going to divide those  
9 royalties.

10 But with respect to your estate, you own in fee  
11 simple. You have both the coal and the gas. So, there's no  
12 conflicting claim. Therefore, there would be no need for  
13 escrow in your situation. You would receive your royalty.

14 ANDY DYE: Let me ask you a question. With where we  
15 own the coal, land, and all the mineral rights, they will not  
16 be allowed to put a gas well on our property?

17 SANDRA RIGGS: That's a whole different issue of  
18 surface rights now. And the Board's position is that in  
19 pooling does not grant surface rights. It does not grant a  
20 right to come up on the surface to conduct...they would have  
21 to come to you and seek in one of two different ways. If you  
22 had leased out previously your coal or your gas to them,  
23 generally that lease like you have right there would give  
24

1 them that right. But the pooling order...it's the position  
2 of the Board that the pooling order does not grant surface  
3 rights.

4           ANDY DYE: Okay. I know this is not pertaining to  
5 what we're here today, but we don't get a chance to talk to  
6 people like you too often. So, I'd like to ask you another  
7 question. If you can't answer it, that's fine. If we don't  
8 sign this lease, can they...do they still...will they still  
9 have the right to that...to lease that land? Do they have to  
10 have so many---?

11           SANDRA RIGGS: Well, what they're seeking from the  
12 Board today is a pooling of the coalbed methane gas of all of  
13 the owners within that square drilling unit to produce that  
14 gas of the existing well that's already there and to pay out  
15 a royalty to the people within that unit.

16           ANDY DYE: I understand that, and we're satisfied  
17 with that. Well, getting back to it again, this may not be a  
18 part of what we're having here today. What I'm saying is,  
19 this lease they want if we don't sign it, they don't get it,  
20 right.

21           SANDRA RIGGS: Well, no. Under the statute, if the  
22 Board approves their application, you will receive a Board  
23 order and it will give you one of three options.

24

--

1           You can either lease under the Board's terms, not  
2 under that lease, but under the terms set forth in the Board  
3 order, in which event you will be a leased party. If you do  
4 nothing, you're still deemed to be a leased party. Okay.  
5 You can elect to be a carried operator entitled to part of  
6 the seven-eighth working interest, but there's a penalty  
7 associated with that. They have to recover their cost times  
8 a factor and then at that point, you start receiving your  
9 working interest payment; or you can put up your share of the  
10 cost of the well and be their partner.

11           So, you get three options under the statute and  
12 those will be spelled out in the order and then you have a  
13 thirty day period of time within which to choose which of  
14 those options you wish. And depending on what your choice  
15 is, then that dictates what you're entitled to receive in  
16 terms of compensation.

17           ANDY DYE: Well, that gets right back to what I said  
18 in the beginning. It doesn't seem fair till you own this  
19 land, then people be able to come in on it and do what they  
20 want to do without you really wanting them to do it.

21           TIVIS BROWN: Since we own it all.

22           SANDRA RIGGS: Well, not come on it, but produce  
23 gas from under it is what we're saying, right, to produce the  
24

1 gas?

2           ANDY DYE: Producing the gas, we have no problem  
3 with it, but what about if the coal is going to come back and  
4 what if we want to lease our coal out to somebody or  
5 something, you know, with these gas wells.

6           SANDRA RIGGS: You're free to do that. You're free  
7 to do that.

8           ANDY DYE: If they lease it?

9           SANDRA RIGGS: They're not leasing your coal. It  
10 only deals with the gas coming off of the coal, the  
11 production of the gas.

12           ANDY DYE: No reflection to these guys, but I've  
13 had a little bit of dealing with coal companies.

14           SANDRA RIGGS: This is not...this proceeding today  
15 deals with only one mineral, and that's coalbed methane gas.

16           ANDY DYE: I understand that.

17           SANDRA RIGGS: It does not affect your conventional  
18 gas rights, nor oil rights, nor would it affect your coal  
19 rights.

20           ANDY DYE: I understand that, ma'am, completely, but  
21 I live in...the area I live in is not very far at all from  
22 Buchanan County where they...and you see these guys that own  
23 this land and they don't want their land tore up, but these

24

--



1 people come in and they send their brush cutting crew in  
2 today and the farmer stops them. Then the next day, they got  
3 a court injunction against him and he's got to set on the  
4 porch and let them go and do whatever they want to do. That  
5 would be the same case that would happen to our land.

6 SANDRA RIGGS: Well, your issue now is surface  
7 rights, which is a different issue.

8 ANDY DYE: But it'll come to this.

9 MARK SWARTZ: You own fee.

10 TIVIS BROWN: The law thing itself is they've never  
11 asked us to lease the coal. We own the coal.

12 SANDRA RIGGS: Well, because they're interested in  
13 producing gas.

14 TIVIS BROWN: But they want the methane off of it.

15 SANDRA RIGGS: Right. That's correct. The  
16 application they---.

17 TIVIS BROWN: They've let Virginia Pocahontas One  
18 Mine was coming towards our property, yet they've not asked  
19 us to lease the coal.

20 SANDRA RIGGS: Well, if they want your coal,  
21 they'll have to deal with you when they get to you because  
22 that's the only way they can get it.

23 TIVIS BROWN: But if they pump our methane gas and  
24

--

1 took it from another direction, that was our mineral, too,  
2 part of our property is gone.

3 SANDRA RIGGS: Well, and that's the royalty or  
4 working interest we're talking about here is the---.

5 TIVIS BROWN: We'd like to sell it all in a lump  
6 sum.

7 SANDRA RIGGS: Well, this Board doesn't have  
8 jurisdiction---.

9 BENNY WAMPLER: We don't have jurisdiction.

10 SANDRA RIGGS: ---over the coal or the---.

11 TIVIS BROWN: Well, that's what I'm feeling the  
12 Board about. I think that gas partnership and Consol needs  
13 to talk to the heirs of this property.

14 MARK SWARTZ: We've done a lot of it. We have  
15 leases. We're willing to continue to talk. We will talk  
16 after this pooling hearing. Nothing that happens today is  
17 going to cause us to stop talking. You know, if you make an  
18 offer that we feel is attractive to sell any interest, you  
19 know, we'll entertain it. If you want to go back to the  
20 drawing board on leases, we'll continue to talk about that.  
21 I mean, nothing that happens today is going to cause us to  
22 say we don't want to talk to you. Now, we may not be able to  
23 agree on terms because you may want more money than we're  
24

1 willing to pay, or we may be willing to pay less than you  
2 want, but we will continue to talk. You've got leases.  
3 You've got an offer from us.

4 TIVIS BROWN: Mr. Swartz, this is between me and  
5 you. They asked me to...for a lease on this property. I'm  
6 spokesman, me and my cousin, for the heirs on this property.

7 MARK SWARTZ: Uh-huh.

8 TIVIS BROWN: We're not lawyers. We have been  
9 offered a lease. They wanted a lease. We've told them we  
10 didn't want to lease. They've not talked to us for two  
11 weeks.

12 MARK SWARTZ: I guess they believed you.

13 TIVIS BROWN: Well, if they don't want to buy, the  
14 gas is ours and the coal is ours. If we don't...if they  
15 don't want to buy, what's---.

16 BENNY WAMPLER: Let me---.

17 TIVIS BROWN: They're wanting to get---.

18 BENNY WAMPLER: Mr. Brown, let me tell you, the  
19 Board can't force them to sell...I mean, force them to buy  
20 you...your coal and gas. We have to go by what...we have the  
21 authority that was granted to us under the law and  
22 regulations, and that's the extent of our jurisdiction.

23 TIVIS BROWN: I wish I had enough education to know

24

--

1 all the laws and everything, and for land, what pertains to  
2 energy and coal, but I don't. I'm not no lawyer. I do want  
3 to see our heirs to get their proper share of the property  
4 that my grandmother has owned from 1909. My grandfather  
5 owned his from 1912.

6 BENNY WAMPLER: Well, under the law and  
7 regulations, the application protects your interest to the  
8 extent of the law and regulations allowed today, absent a  
9 private negotiation between you and the company.

10 TIVIS BROWN: I'm just saying that they don't need  
11 but one thing, tying it up for a ten year lease, which would  
12 be \$1200 bucks, providing them to come in there there---.

13 ANDY DYE: 70 heirs.

14 TIVIS BROWN: 70 heirs, which is practically  
15 nothing, wouldn't no more than pay me for mailing out a  
16 postage stamp.

17 SANDRA RIGGS: Well, that's...again, you're  
18 separating out the significant money that would come in the  
19 royalties, not in that bonus payment. The ongoing royalties  
20 off of the production, one-eighth of production, which would  
21 also come to you. It's not just that up front payment, it's  
22 also the ongoing royalty that you'll be entitled to. You go  
23 to look at both of those figures to figure out your

24

--

1 compensation.

2           TIVIS BROWN: Well, we understand that the gas down  
3 below this methane, they'd have to pay us separate for that.  
4 They also have to pay us for this methane gas that they're  
5 wanting to put in.

6           SANDRA RIGGS: Right.

7           TIVIS BROWN: We want to sell the coal.

8           BENNY WAMPLER: We can't---.

9           SANDRA RIGGS: That's a separate issue.

10          BENNY WAMPLER: I understand that real clear, but  
11 we can't help you.

12          TIVIS BROWN: That don't concern us. Well, I'm  
13 going to shut up.

14          BENNY WAMPLER: That's fine, I mean, but we do  
15 understand where you're coming from and we wish you the best.

16          TIVIS BROWN: Well, that is bad, though, somebody  
17 wanting to pay for the gas off of your coal that you own. I  
18 think that is really bad. You know, I might visit the  
19 Capital and the General Assembly this fall. There's always  
20 changes to be made.

21          BENNY WAMPLER: Yeah, they've modified the law a  
22 couple of times since 1990 when the Act was changed then for  
23 this protection. Anything further, members of the Board?

24

--

1 You gentlemen have anything further?

2 ANDY DYE: No.

3 BENNY WAMPLER: You have anything further? Is  
4 there a motion?

5 CLYDE KING: Under the rules we abide by, I move  
6 that we approve.

7 BENNY WAMPLER: I have a motion to approve. Is  
8 there a second?

9 MASON BRENT: Second.

10 BENNY WAMPLER: Motion and second. Any further  
11 discussion?

12 (No audible response.)

13 BENNY WAMPLER: All in favor, say yes.

14 (Members signify yes except Max Lewis.)

15 BENNY WAMPLER: Opposed, say no.

16 (Max Lewis indicates no.)

17 BENNY WAMPLER: We have one no. You have approval.  
18 Thank you.

19 TIVIS BROWN: Methane off our place is pooled,  
20 right?

21 BENNY WAMPLER: I'm sorry.

22 TIVIS BROWN: The Board decided that the methane  
23 off our place would be pooled?

24

1           BENNY WAMPLER: You'll get a copy of the Board  
2 order that was a vote today for the pooling was approved and  
3 you'll have the three options that Ms. Riggs discussed for  
4 that.

5           CLYDE KING: You need to get you an attorney and  
6 decide how you want to---.

7           TIVIS BROWN: We have to do that within 15 days if  
8 we so decide?

9           SANDRA RIGGS: It's 30 days from the date of  
10 recording of the order. So it'll take probably a couple or  
11 three weeks for the order to go out, then it gets recorded in  
12 the property records in the county where the well is located.  
13 Then a copy gets mailed to you. Then you get 30 days from  
14 that date to make your election.

15           BENNY WAMPLER: You'll actually have two to three  
16 months.

17           SANDRA RIGGS: So, you can continue negotiating in  
18 the meantime with these folks.

19           TIVIS BROWN: I would like to say this before the  
20 Board. I know you're doing your job and it's none of my  
21 business and first one thing and another, but I feel awful  
22 sorry for the statute in the State of Virginia would allow  
23 somebody to take something off of your land that you own and  
24

1 you pay taxes on it, that they do not own. That is bad, real  
2 bad.

3 BENNY WAMPLER: We're not going to tell you it's  
4 none of your business. I think it is.

5 TIVIS BROWN: I appreciate that. Sometimes my  
6 voice might be a little loud and it might sound like I'm a  
7 little bit irritable, but I'm not. I speak loud because that  
8 I've got a hearing problem.

9 BENNY WAMPLER: We understand that. We wish you  
10 the best. I hope your negotiations are successful.

11 TIVIS BROWN: Thank you.

12 BENNY WAMPLER: The next item on the agenda is a  
13 petition from Buchanan Production Company for pooling of  
14 coalbed methane unit identified as J-38. This is docket  
15 number VGOB-01-05/15-0890, and we'd ask the parties that wish  
16 to address the Board in this matter to come forward at this  
17 time.

18 MARK SWARTZ: Mark Swartz on behalf of Buchanan  
19 Production Company, and I would also like to...I would like  
20 to ask to continue this and also ask to continue the next  
21 item which is J-39. My client is...in fact, today I think,  
22 continuing discussions with Virginia Gas with regard to  
23 trying to work out some kind of accommodation here similar  
24



1 to, you know, the arrangement that we reached with Equitable,  
2 and we'd like an additional month to pursue those  
3 negotiations to see if we can resolve our differences with  
4 regard to their participation claim. So, I'd like a  
5 continuance, if I could, on 10 and 11.

6 BENNY WAMPLER: Is there anyone---?

7 BOB WILSON: Mr. Chairman---.

8 BENNY WAMPLER: Excuse me.

9 BOB WILSON: ---I have had contact from Virginia  
10 Gas Company and from the attorney that represents their  
11 interest and they have also requested a continuance in these  
12 items to facilitate the further negotiations.

13 BENNY WAMPLER: Any objection to a continuance?

14 CLYDE KING: That's 10 and 11?

15 BENNY WAMPLER: Yes, sir.

16 (No audible response.)

17 BENNY WAMPLER: Those matters are continued until  
18 July.

19 MARK SWARTZ: Thank you all, appreciate it.

20 BENNY WAMPLER: The next item on the agenda is a  
21 petition from Columbia Natural Resources for pooling of  
22 conventional well unit identified as 24340. This is docket  
23 number VGOB-01-06/19-0897. We'd ask the parties that wish to  
24

--

1 address the Board in this matter to come forward at this  
2 time. That's number 13 on your list.

3 MASON BRENT: Mr. Chairman, I recuse myself.

4 BENNY WAMPLER: So noted.

5 JIM KISER: Mr. Chairman, members of the Board, Jim  
6 Kiser on behalf of Columbia Natural Resources. My witnesses  
7 in this matter will be Ms. Mary Ann Fox and Mr. Jason  
8 Blakemore. I'd ask that they both be sworn at this time.

9 (Witnesses are duly sworn.)

10 BENNY WAMPLER: The record will show there are no  
11 others. You may proceed.

12

13

14

15

16

17

18

19

20

21

22

23

24

--

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

MARY ANN FOX

having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. KISER:

Q. Ms. Fox, would you state your name for the Board, who you're employed by and in what capacity?

A. My name is Mary Ann Fox. I'm employed by Columbia Natural Resources, manager of their land department.

JIM KISER: I'm going to pass out a revised Exhibit B.

Q. Do your responsibilities include the land involved here and the surrounding area?

A. Yes.

MASON BRENT: And the revision to Exhibit B when it was submitted with the application, there's three tracts in the unit, two Big Sandy Coal Corp tracts and then a very small Bull Creek Coal Company tract in the area...in the original Exhibit B. Both tracts one and two, since they're both Big Sandy Coal tracts, were combined where they needed to be separated out to be in congruents with the plat.

Q. Are you familiar with our application seeking an establishment of a drilling order...of a drilling

1 unit and a pooling order for C & R well number 24340, which  
2 was dated May 18th, 2001?

3 A. Yes.

4 BENNY WAMPLER: Did you have them sworn in?

5 JIM KISER: Yes.

6 Q. Does C and R own drilling rights in the unit  
7 involved here?

8 A. Yes.

9 Q. Now, actually in this particular unit, both  
10 of the Big Sandy Coal Corp tracts are under one lease, and  
11 the Bull Creek Coal Company tract is also under a voluntary  
12 lease; and...but that particular lease did not contain a  
13 pooling clause, is that correct?

14 A. That's correct.

15 Q. Okay. Now, prior to filing this  
16 application, did we approach the appropriate personnel at  
17 Bull Creek Coal Company in an attempt to get a modification  
18 of that lease to include a pooling provision so that we  
19 wouldn't have to come before the Board and do this today?

20 A. Yes, we did.

21 Q. And is it also true that if we...at my  
22 suggestion, I suggested to some of your folks that we move  
23 the well to the Northeast to eliminate that tract from the

24

--

1 unit since they wouldn't modify their lease, and in doing so,  
2 we would have taken in some additional tracts to the  
3 Northeast, who we attempted to lease, who wouldn't lease, and  
4 we would have ended up pooling more parties than we are here?

5 A. Yes, many more parties.

6 Q. Okay. Now, are the address as set out in  
7 Exhibit B of the application the last known addresses for the  
8 respondents?

9 A. Yes.

10 Q. And are you requesting this Board to force  
11 pool the interest on tract three listed in Exhibit B, that  
12 being the Bull Creek Coal Company .43 acres, or one-percent  
13 of the unit that is included in the lease that doesn't  
14 contain a pooling provision?

15 A. Yes.

16 Q. All right. Now, based on that, and based on  
17 the fact that we would be pooling that, should they be  
18 provided the following options with respect to their interest  
19 within the unit: One, participation; two, a cash bonus of  
20 five dollars per net mineral acre, plus a one-eighth of  
21 eight-eighths royalty; three, in lieu of the cash bonus and  
22 one-eighth of eight-eighths royalty, a share in the operation  
23 of the well on a carried basis as a carried operator under  
24

1 the following conditions: That the carried operator shall be  
2 entitled to the share of production from the tracts pooled  
3 accruing to its interest exclusive of any royalty or  
4 overriding royalty reserved in any leases, assignments  
5 thereof or agreements relating thereto of such tracts, but  
6 only after the proceeds allocable to the share equal 300% of  
7 the share of such cost applicable to the interest of a  
8 carried operator of a leased tract or portion thereof; or B,  
9 200% of the share of such cost applicable to the interest of  
10 the carried operator of an unleased tract or portion thereof?

11 A. Yes.

12 Q. Do you recommend that the order provide that  
13 the election by the respondent be in writing and sent to the  
14 applicant at Columbia Natural Resources, Inc., 900  
15 Pennsylvania Avenue, P. O. Box 6070, Charleston, West  
16 Virginia 25302, attention Mary Ann Fox, Regulatory?

17 A. Yes.

18 Q. Should this be the address for all  
19 communications with the applicant concerning any force  
20 pooling order?

21 A. Yes.

22 Q. We don't have any escrow. Who should be  
23 named the operator under any force pooling order?

24

--

1           A.       Columbia Natural Resources.

2           JIM KISER:   Nothing further of this witness at this  
3 time, Mr. Chairman.

4           BENNY WAMPLER:   Can you tell us where this well is  
5 located?

6           JIM KISER:   It's located on the Big Sandy Coal  
7 Corporation, 190.580 acres coal, oil and gas tract,  
8 approximately 3.4 miles north of Harman Junction, on drainage  
9 of Miles Branch, a tributary of the Levisa Fork of the Big  
10 Sandy, Rock Lick District, Harman Quadrangle, Buchanan  
11 County.

12          BENNY WAMPLER:   Thank you.   You may continue.   Any  
13 questions of this witness?

14          (No audible response.)

15          BENNY WAMPLER:   Call your next witness.

16

17                               JASON BLAKEMORE

18 having been duly sworn, was examined and testified as  
19 follows:

20                               DIRECT EXAMINATION

21 QUESTIONS BY MR. KISER:

22           Q.       Mr. Blakemore, if you'd state your name for  
23 the Board, who you're employed by and in what capacity?

24

--

1           A.       Jason Blakemore, employed with Columbia  
2 Natural Resources. I'm an associate prospect engineer.

3           Q.       And you've previously testified before the  
4 Virginia Gas and Oil Board?

5           A.       Yes.

6           Q.       And your responsibilities include the land  
7 involved here and the surrounding area?

8           A.       Yes.

9           Q.       Are you familiar with the proposed plan of  
10 exploration and development for this unit?

11          A.       Yes.

12          Q.       What is the total depth of the proposed  
13 well?

14          A.       5220 feet.

15          Q.       Will this be sufficient to penetrate and  
16 test the common sources of supply in the subject formations?

17          A.       Yes.

18          Q.       And is Columbia Natural Resources requesting  
19 the force pooling of conventional gas reserves, not only to  
20 include the designated formations, but any other formations  
21 excluding coal formations---?

22          A.       Yes.

23          Q.       ---which may be between those formations  
24



1 designated from the surface to the total depth drilled?

2 A. Yes.

3 Q. What are the estimated reserves for this  
4 unit?

5 A. 410,000,000 cubic feet.

6 Q. Are you familiar with the AFE that was  
7 submitted as Exhibit C to this application?

8 A. Yes.

9 Q. And has this AFE been prepared by an  
10 engineering department knowledgeable in the preparation of  
11 AFEs and knowledgeable in regard to well cost in this area?

12 A. Yes.

13 Q. In your professional opinion, does the AFE  
14 represent a reasonable estimate of well cost under the plan  
15 of development?

16 A. Yes.

17 Q. Would you state for the Board what both the  
18 dry hole cost and completed well cost of 24340 would be?

19 A. Dry hole cost would be \$177,648, and  
20 completed well cost would be \$306,573.

21 Q. And do these costs anticipate a multiple  
22 completion?

23 A. Yes.

24

--

1                   Q.       Does your AFE include a reasonable charge  
2 for supervision?

3                   A.       Yes.

4                   Q.       In your professional opinion, would the  
5 granting of this application be in the best interest of  
6 conservation, prevention of waste and protection of  
7 correlative rights?

8                   A.       Yes.

9                   JIM KISER: Nothing further of this witness at this  
10 time, Mr. Chairman.

11                  BENNY WAMPLER: Mr. Blakemore, you said that the  
12 total depth was 5220. Has it been drilled or is that your  
13 estimate?

14                  A.       That's the estimate of the...it says 5120 on  
15 the AFE. They add a 100 feet...the drilling engineer adds a  
16 100 feet to make sure all the zones are penetrated.

17                  BENNY WAMPLER: Okay. Thank you. Other questions  
18 of this witness?

19                  (No audible response.)

20                  BENNY WAMPLER: Do you have anything further?

21                  JIM KISER: Mr. Chairman, we'd ask that the  
22 application be approved as submitted.

23                  BENNY WAMPLER: Is there a motion?  
24  
~

1           CLYDE KING:    So moved.

2           BENNY WAMPLER:   We have a motion to approve.   Is  
3   there a second?

4           MAX LEWIS:    Is this the only map that you have of  
5   this location here?   Do you have another map?   Could I see  
6   that?

7                   (Max Lewis reviews map.)

8           BENNY WAMPLER:   Always have him a map.   He wants to  
9   know where that is.

10          MAX LEWIS:    I want to know where it's at.

11          JIM KISER:    Do you know where Harman Junction is?

12          MAX LEWIS:    Yeah, I know.   Honey, I know it all.   I  
13   know where everything in the county is.

14          JIM KISER:    I renew my request that the application  
15   be approved as submitted.

16          BENNY WAMPLER:   I have a motion for approval.   Is  
17   there a second?

18          MAX LEWIS:    Second.

19          BENNY WAMPLER:   Second.   Any further discussion?

20                   (No audible response.)

21          BENNY WAMPLER:   All in favor, signify by saying  
22   yes.

23                   (All members signify yes.)

24

1           BENNY WAMPLER: Opposed, say no.  
2           (No audible response.)  
3           BENNY WAMPLER: You have approval.  
4           JIM KISER: Thank you.  
5           BENNY WAMPLER: The next item on the agenda is a  
6 petition from Penn Virginia Oil and Gas Company for pooling  
7 of conventional well unit identified as Fletcher #1, HV. This  
8 is docket number VGOB-01-06/19-0898. We'd ask the parties  
9 that wish to address the Board in this matter to come forward  
10 at this time.  
11           JIM KISER: Mr. Chairman, members of the Board, Jim  
12 Kiser on behalf of Penn Virginia Oil and Gas Company. Our  
13 witnesses in this matter, at least on a preliminary basis  
14 will be Mr. Wayne Maness and Mr. Dick Waddell. While I ask  
15 that they be sworn and then if Mr. Lewis needs to ask some  
16 questions, we'll have him sworn. We have him here, also. In  
17 the meantime, I'm going to pass out a revised Exhibit B which  
18 reflects additional leases that were picked up since the time  
19 of the application.  
20           BENNY WAMPLER: If you would, swear the witnesses.  
21           (Witnesses are duly sworn.)  
22           JIM KISER: Our first witness will be Mr. Maness.  
23  
24  
~

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

WAYNE MANESS

having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. KISER:

Q. Mr. Maness, if you would state your name for the Board, who you're employed by and in what capacity?

A. Wayne Maness. I'm a contract land man for Penn Virginia Oil and Gas Company.

MR. KISER: At this time, Mr. Chairman, I'd like to submit a copy of Mr. Maness's resume. He has not previously testified before the Board, at least not in recent past.

Q. Wayne, at this time, if you would go through your experience in the oil and gas industry, particularly in the area of oil and gas lease acquisition and land matters.

A. In 1979, I started working in the oil and gas industry extensive areas of Virginia, Tennessee, Kentucky, West Virginia, mostly the Eastern overthrust. Recently the areas where this particular well is proposed, leasing the interest in this particular well unit.

Q. And your experience overall these years included both oil and gas lease acquisition, pipeline right-of-way acquisition, dealing with establishment of drill site

1 locations, negotiating surface damages with land owners, all  
2 those things?

3 A. Yes.

4 JIM KISER: Mr. Chairman, I'd ask that Mr. Maness  
5 be considered an expert witness in the matter of land matters  
6 and lease acquisition.

7 BENNY WAMPLER: You may continue.

8 Q. Now, are you familiar with Penn Virginia Oil  
9 and Gas Company's application for establishment of a drilling  
10 unit and the seeking of a pooling order for Penn Virginia  
11 Fletcher #1 HV which was dated May the 18th, 2001?

12 A. Yes, I am.

13 Q. And does Penn Virginia own drilling rights  
14 in the unit involved here?

15 A. Yes.

16 Q. Prior to filing the application, were  
17 efforts made to contact each of the respondents listed in  
18 Exhibit B or revised Exhibit B and an attempt made to work  
19 out an agreement regarding the development of the unit?

20 A. Yes, direct and indirectly, there was some  
21 of the owners who I dealt through their attorney. There's  
22 two life tenants in this situation. We were taking oil and  
23 gas lease...requesting oil and gas lease from a life tenant,

24

--

1 with ratifications from their remainderments.

2 Q. At the time that the application was filed,  
3 what was the interest in the unit that was under lease to  
4 Penn Virginia?

5 A. 65.92%.

6 Q. Okay. Are you familiar with ownership of  
7 drilling rights of parties other than Penn Virginia  
8 underlying this unit?

9 A. Yes.

10 Q. And the unleased percentage at the time of  
11 the filing of the application?

12 A. Was 34.08.

13 Q. Now subsequent to the filing of the  
14 application and as represented on revised Exhibit B, you  
15 continued to reach a voluntary agreement, or obtain a  
16 voluntary oil and gas lease, with the unleased respondents  
17 listed in Exhibit B to the application. Is that correct?

18 A. Yes.

19 Q. And as a result of those efforts, you have  
20 acquired some additional new leases that are listed on  
21 revised Exhibit B now as leased parties; and as such, would  
22 you please point those out to the Board?

23 A. It would be, I guess, tract two.

24

--

1 Q. Yeah, do it on a tract by tract basis?

2 A. Tract two would be the Charlotte Muser and  
3 Nick, her husband. That was a ratification. Tract three,  
4 Barbara Louise Leonard was also leased. Tracts...tract 14  
5 was leased.

6 Q. Barbara Lo...let me stop you. Barbara  
7 Louise Leonard is also on tract five. Is that correct?

8 A. Yes. Tract 14 was leased after the notice,  
9 and 100% of tract 21.

10 Q. Okay. So, now at the time of the hearing,  
11 what is the percentage that's leased and what percentage  
12 remains unleased?

13 A. I'm sorry. I don't have those revised  
14 figures in front of me. The Board has got those.

15 BENNY WAMPLER: They're not recalculated.

16 JIM KISER: Well, suffice it to say we have  
17 additional interests under lease and this Exhibit will need  
18 to be revised again. We'll get you a revised...I'll have it  
19 faxed to you tomorrow. I think it represents, what, about an  
20 additional two percent?

21 BENNY WAMPLER: No, it's---.

22 MAX LEWIS: 67%.

23 JIM KISER: 67.3%.

24

--



1                   A.       About 68%. Yes, sir.

2                   Q.       Important fact that I want...important point  
3 that I want to make is that you continued to exercise due  
4 diligence since the time of the filing of the application in  
5 an attempt to reach voluntary agreements with these unleased  
6 parties rather than force pooling?

7                   A.       Yes.

8                   Q.       We do not have any unknown owners or unknown  
9 ...undivided interest or unknown heirs in this unit?

10                  A.       No, sir.

11                  Q.       In your professional opinion, was due  
12 diligence exercised to locate each of the respondents named  
13 herein?

14                  A.       Yes, sir.

15                  Q.       Are the addresses set out in the revised  
16 Exhibit B of the application the last known addresses for the  
17 respondents?

18                  A.       Yes.

19                  Q.       And you're requesting the Board to force  
20 pool all unleased interest listed in revised Exhibit B?

21                  A.       Yes.

22                  Q.       Or the revised-revised Exhibit B. Are you  
23 familiar with the fair market value of drilling rights in the  
24

1 units and the surrounding area?

2 A. Yes, sir.

3 Q. Could you advise the Board as to what those  
4 are?

5 A. A five dollar bonus for signing and three  
6 dollar a year rentals on a five year contract.

7 Q. And a one-eighth royalty?

8 A. And a one-eighth royalty.

9 Q. Did you gain this familiarity by acquiring  
10 oil and gas leases and other agreements involving the  
11 transfer of drilling rights in the unit here and in the  
12 surrounding area?

13 A. Yes.

14 Q. In your opinion, do the terms you have  
15 testified to represent the fair market value of and the fair  
16 and reasonable compensation to be paid for drilling rights  
17 within this unit?

18 A. Yes, sir.

19 Q. As to those parties who remain unleased, do  
20 you recommend they be allowed the following options with  
21 respect to their ownership interest: One, participation;  
22 two, a cash bonus of five dollars per net mineral acre plus a  
23 one-eighth of eight-eighths royalty; three, in lieu of a cash

24

--

1 bonus and one-eighth of eight-eighths royalty, a share in the  
2 operation of a well on a carried basis as a carried operator  
3 under the following conditions: Such carried operator shall  
4 be entitled to a share in the production from the tracts  
5 pooled accruing to his interest, exclusive of any royalty or  
6 overriding royalty reserved in any leases, assignments  
7 thereof, or agreements relating thereto of such tracts, but  
8 only after the proceeds applicable to his share equal 300% of  
9 the share of such costs applicable to the interest of the  
10 carried operator of a leased tract or portion thereof, or  
11 200% of the share of such cost applicable to the interest of  
12 the carried operator of an unleased tract or portion thereof?

13 A. Yes.

14 Q. Do you recommend that the order provide that  
15 the election by respondents be in writing and sent to the  
16 applicant at Penn Virginia Oil and Gas Corporation, P. O. Box  
17 387, Duffield, Virginia 24244-0387, attention Jim Harsh?

18 A. Yes.

19 Q. And should this be the address for all  
20 communications with the applicant concerning a force pooling  
21 order?

22 A. Yes, sir.

23 Q. Do you recommend that the order provide that  
24

1 if no written election is properly made by a respondent, then  
2 such respondent should be deemed to have elected the cash  
3 royalty option in lieu of participation?

4 A. Yes.

5 Q. Should all unleased respondents be given 30  
6 days from the date of the execution of the order to file  
7 their written elections?

8 A. Yes, sir.

9 Q. If an unleased respondent elects to  
10 participate, should they be given 45 days to pay the  
11 applicant for the respondent's proportionate share of well  
12 cost?

13 A. Yes.

14 Q. Does the applicant expect the party electing  
15 to participate to pay in advance that party's share of  
16 completed well cost?

17 A. Yes.

18 Q. Should the applicant be allowed 120 days  
19 following the recording of the Board order and thereafter  
20 annually on that date until production is achieved to pay or  
21 tender any cash bonus becoming due under any force pooling  
22 order?

23 A. Yes.

24

--

1                   Q.       Do you recommend that the order provide that  
2 if a respondent elects to participate but fails to pay the  
3 proportionate cost of well cost satisfactory to the applicant  
4 for payment of those costs, then their election to  
5 participate should be treated as having been withdrawn and  
6 void?

7                   A.       Yes, sir.

8                   Q.       Do you recommend that the order provide that  
9 where a respondent elects to participate but defaults in the  
10 payment of well costs, any cash sum becoming payable to such  
11 respondent be paid within 60 days after the last date on  
12 which such respondent could have paid or made satisfactory  
13 arrangements for the payment of those well costs?

14                  A.       Yes.

15                  Q.       Okay. We don't have any unknowns or  
16 unlocateables in this unit, and we don't have any title  
17 defects. Is that correct?

18                  A.       Yes, that's correct.

19                  Q.       So there's no reason in this particular case  
20 for the Board to establish an escrow account?

21                  A.       No, sir.

22                  JENNIFER SEXTON: May I address the Board at this  
23 time to address that, please? I'm...do I have to go down  
24

1 there. Right here, is that all right?

2 BENNY WAMPLER: She can't hear you. I'm sorry.

3 COURT REPORTER: I can't hear you.

4 BENNY WAMPLER: It's not us. It's just that she  
5 can't pick you up and we need you to just sit over here, or  
6 stand, whichever you prefer, but we need you near a mike.

7 Just state your name for the record and then  
8 whatever you have to say.

9

10 JENNIFER SEXTON: I'm Jennifer Sexton. I am in the  
11 number two on your Exhibit B, I guess. I'm one of the  
12 parties there. We also are on, I think it's number 17 in the  
13 pooling application, I guess is what you call that. My only  
14 question is that I know the Board does not get into land  
15 disputes, but the land...this is the life tenant, is my  
16 mother-in-law at the top, the Helen Lester Sexton. She has a  
17 life estate in the farm and if her deed just says upon her  
18 death, it's divided among her children. It doesn't list the  
19 children that she had. So when my husband and I, plus two of  
20 my other sister-in-laws had to get a clear deed to build our  
21 house on our land, we had to go through the court system and  
22 prove that my mother-in-law was not physically able to have  
23 children. And we did have to set aside an escrow account for

24

--

1 an unknown heir. We had to put aside...it was about...it's  
2 on file with...I think it was like \$650, or something like  
3 that, for...in case she...even though she physically wasn't  
4 able to have children, in case she remarried and had adopted  
5 children, I guess at that point, even though I know she's not  
6 going to have any more. But, you know, that was only our  
7 concern, is that we understand that they're going to give  
8 them a pooling right, no matter what we say. I'm kind of  
9 like the other guy, you know. I have a real problem with  
10 somebody telling me what I have to do with my land when I own  
11 it and I have to take that up with my Congressman, I guess,  
12 or something. So I understand that, but I know you're going  
13 to probably give them a pooling right even though they have  
14 67% and they don't have, you know, the whole 100%. But that  
15 was my only question was that of the one like that. And  
16 there's also another one like that, which is my mother-in-  
17 law's sister.

18 WAYNE MANESS: Number tract 16.

19 JIM KISER: The only one that would affect you  
20 would be tract two.

21 JENNIFER SEXTON: Right.

22 JIM KISER: 17, you're on your own.

23 JENNIFER SEXTON: Right.

24

--

1           WAYNE MANESS: Well, now she's got two interests.

2           JENNIFER SEXTON: But my 17 is the solely owned.

3 My title insurance is totally---. That's my only thing, is  
4 that if we had to do that back then, me and my sister-in-law  
5 did, and some of the other land is not in the lease that's on  
6 the other parts of the farm had to do that, would they not be  
7 entitled to have to do the same thing for...and now what they  
8 explained to us, our lawyer and the judge said that when she  
9 did pass away, we would have to repetition the court in order  
10 to get our escrow money back. Does that make sense? I know  
11 you don't get into land agreement, and maybe that's not  
12 something that you address at this time. Maybe it's  
13 something that once you give them the pooling right, our  
14 lawyer has to discuss with---.

15           BENNY WAMPLER: We're going to ask Mr. Kiser to  
16 address it first.

17           JIM KISER: Well, as a life tenant, she cannot  
18 waste the property, so she's not entitled to any of the  
19 royalty anyway. I guess your question is, do we need to  
20 establish escrow, what do they call it in law school, a  
21 fertile octogenarian under the...because of the state of the  
22 title, under the fact that she didn't say to all my children  
23 and then list them. She just said to all my children.

24

--



1           JENNIFER SEXTON: Well, actually it was deeded from  
2 her father to her, which is the same way that the other tract  
3 ...because it's her sister, is the other tract is the same  
4 way, not tract 17 but the---.

5           WAYNE MANESS: Tract 16.

6           JENNIFER SEXTON: Yeah.

7           SANDRA RIGGS: You have an unknown claimant here.

8           JENNIFER SEXTON: And two of the---.

9           WAYNE MANESS: We don't have any yet.

10          JENNIFER SEXTON: My question is if I had to do it  
11 and my sister-in-law had to do it, you know, in order to get  
12 title insurance to get...you know, to build the house with  
13 the bank, then you had to have set it up.

14          JIM KISER: You understand, though, if we do---.

15          JENNIFER SEXTON: I understand that it's going to  
16 cut out a part of our little \$50 we're going to get a month,  
17 Jim. I understand that.

18          JIM KISER: We don't really care. I mean, if you  
19 want to have the Board establish an escrow.

20          JENNIFER SEXTON: I think they should do that  
21 because legally we all had to do it and it's---.

22          JIM KISER: It doesn't matter to the operator as  
23 long as everyone understands that all the money attributable  
24

1 to tract two will be escrowed until the time that she dies.

2 SANDRA RIGGS: Well, is it all the money or is  
3 there a percentage, a 25% of tract two that was allocated to  
4 the unknown claimant....?

5 JENNIFER SEXTON: It's just like a percentage.

6 SANDRA RIGGS: ....is what I thought I heard her  
7 say. We don't have a conflicting claimant here.

8 JIM KISER: We have an unknown.

9 SANDRA RIGGS: We have an unknown. So it would be  
10 their proportionate share, and if that proportionate share is  
11 established by the Board order, it shouldn't tie up  
12 everything in tract two, only that share of tract two.

13 BENNY WAMPLER: Did you say it's 25%?

14 JENNIFER SEXTON: I don't know. I'll be honest,  
15 sir. I'm not sure what the amount was and I don't have a  
16 copy of that court order. It's filed. Our lawyer was White,  
17 Elliott, Bundy & McElroy. So I'm sure they have a copy of it  
18 on...I can obtain it and fax it to you.

19 BENNY WAMPLER: Let's just make sure that you  
20 understand that by doing this, that money that might  
21 otherwise be paid to you would be, a portion of it, escrowed  
22 rather than coming to you---?

23 JENNIFER SEXTON: Right, a portion of it would be.

24

--

1           BENNY WAMPLER: ---until she was deceased.  
2           JENNIFER SEXTON: We understand it.  
3           BENNY WAMPLER: Okay.  
4           JENNIFER SEXTON: And then do we have to do the  
5 same as we would for our land, petition it again---?  
6           SANDRA RIGGS: Right.  
7           JENNIFER SEXTON: ---to get it.  
8           JIM KISER: You'd have to petition the Board to get  
9 it out.  
10          JENNIFER SEXTON: Yeah.  
11          BENNY WAMPLER: At that point in time.  
12          JENNIFER SEXTON: That's fine.  
13          JIM KISER: She files an application fee. I mean,  
14 how would---?  
15          JENNIFER SEXTON: That's all right, Jim. Don't  
16 worry about it. Let me just worry about it. You worry about  
17 your little fee over there, okay.  
18          JIM KISER: Whatever.  
19          JENNIFER SEXTON: You're getting...every time you  
20 blink, it's \$100, I'm sure.  
21          SANDRA RIGGS: Okay. Unknown heir to be escrowed  
22 and percentage to be based on the order that you're going to  
23 supply us, right?  
24

1           JENNIFER SEXTON: Right. Who do I need to send it  
2 to?

3           SANDRA RIGGS: If you'll just---.

4           JENNIFER SEXTON: Mr. Wilson.

5           BENNY WAMPLER: Get it to that gentleman right  
6 there and we'll take care of it.

7           JENNIFER SEXTON: Okay, fine. Thank you.

8           BENNY WAMPLER: Thank you.

9           JENNIFER SEXTON: I object to you making me give it  
10 to them and my sisters-in-law do too, but they won't come and  
11 say it, and I know I have to give it to them but it's sure  
12 not fair either.

13           BENNY WAMPLER: If you'll just bring that into the  
14 office, he can make a copy if that's convenient. I don't  
15 know where you live, but if that's convenient.

16           JENNIFER SEXTON: Hansonville, the metropolis of  
17 Russell County.

18

19                           DIRECT EXAMINATION (cont.)

20   QUESTIONS BY MR. KISER:

21           Q.       Okay. Let's go back and revisit the escrow  
22 account question now based on the testimony that Ms. Sexton  
23 has presented, we do have a potential unknown claimant to a

24

--

1 undivided interest in tract two within the unit. So would  
2 we...we will ask that the Board create an escrow account to  
3 handle that situation until such time that the parties in  
4 tract two come forward and ask that that money be  
5 distributed?

6 A. Yes. We also have tract 16 that's under the  
7 same, but no one asked for tract 16.

8 Q. Well, I mean, we've got another life tenant  
9 situation, but do we have---?

10 A. No one asked.

11 Q. ---an instrument that says it goes to my  
12 children, which brings in the---?

13 A. Same wording, title is the same wording.

14 SANDRA RIGGS: But we don't know whether there's  
15 been a court action in that particular one where the court  
16 has ordered an allocation to an unknown heir?

17 JENNIFER SEXTON: Mr. Fuller. I'm sure not. Has  
18 anyone ever been to court like we did to set aside money for  
19 unknown heirs? No. Theirs is total farm land.

20 Q. Then finally, Mr. Maness, who should be  
21 named the operator under the force pooling order?

22 A. Penn Virginia Oil and Gas Corporation.

23 JIM KISER: Nothing further of this witness at this  
24

--

1 time, Mr. Chairman.

2 BENNY WAMPLER: Any questions of this witness from  
3 members of the Board?

4 (No audible response.)

5 BENNY WAMPLER: Call your next witness.

6 JIM KISER: Our next witness will be Mr. Rick  
7 Waddell. I'd like to present you a copy of his resume.

8

9 RICHARD WADDELL

10 having been duly sworn, was examined and testified as  
11 follows:

12 DIRECT EXAMINATION

13 QUESTIONS BY MR. KISER:

14 Q. Mr. Waddell, if you'd state for the Board  
15 who you're employed by and in what capacity?

16 A. Yes. I'm employed with Penn Virginia Oil  
17 and Gas, as a senior petroleum engineer.

18 Q. Now, you've not testified on any previous  
19 occasions before the Oil and Gas Board, and in order to  
20 qualify you as a expert witness in the area of operation and  
21 production, would you briefly go through both your education  
22 and your professional work history?

23 A. Yes, I have a degree, bachelor and master's

24

--

1 degree in petroleum engineering. After spending 20 years  
2 with the Corp of Engineers, U. S. Army, I started in the oil  
3 and gas business. I've been in this for 21 years, primarily  
4 involved with drilling, completion and operational matters,  
5 anywhere from West Texas, Alabama, the last seven or eight  
6 years in the Appalachian basin.

7           JIM KISER: Mr. Chairman and Board members, we'd  
8 ask that Mr. Waddell be accepted as a expert witness in the  
9 area of operations and production.

10           BENNY WAMPLER: You may proceed.

11           Q.       And your responsibilities do include the  
12 land involved here and the surrounding area?

13           A.       Yes.

14           Q.       Are you familiar with the proposed  
15 exploration and development of this unit?

16           A.       Yes.

17           Q.       What is the total depth of the proposed  
18 well?

19           A.       7000 feet.

20           Q.       Will this be sufficient to penetrate and  
21 test the common sources of supply in the subject formations?

22           A.       Yes, it will.

23           Q.       And is Penn Virginia requesting the force  
24

--

1 pooling of conventional gas reserves, not only to include the  
2 designated formations, but any other formations excluding  
3 coal formations which may be between those formations  
4 designated from the surface to the total depth drilled?

5 A. Yes.

6 Q. What are the estimated reserves for this  
7 unit?

8 A. 750,000,000 cubic feet.

9 Q. Are you familiar with the well cost of the  
10 proposed well under the plan of development?

11 A. Yes, I am.

12 Q. Has an AFE been reviewed, signed and  
13 submitted to the Board as Exhibit C to the application?

14 A. Yes.

15 Q. Was this AFE prepared by an engineering  
16 department knowledgeable in the preparation of AFEs and  
17 knowledgeable in regard to well cost in this area?

18 A. Yes, it was.

19 BENNY WAMPLER: Our copy is not signed. Do you  
20 have one? Don't mean to interrupt you.

21 Q. In your professional opinion, does the AFE  
22 represent a reasonable estimate of the well cost of the  
23 proposed well?

24

--



1           A.       Yes.

2           Q.       Would you state for the Board at this time  
3 what both the dry hole cost and completed well cost for the  
4 Fletcher #1 would be?

5           A.       Yes.   The dry hole cost would be \$524,700,  
6 and completed well cost \$707,500.

7           Q.       Do these costs anticipate a multiple  
8 completion?

9           A.       Yes.

10          Q.       Does your AFE include a reasonable charge  
11 for supervision?

12          A.       Yes, \$20,000.

13          Q.       In your professional opinion, would the  
14 granting of this application be in the est interest of  
15 conservation, prevention of waste and protection of  
16 correlative rights?

17          A.       Yes.

18          JIM KISER:   Nothing further of this witness at this  
19 time, Mr. Chairman.

20          BENNY WAMPLER:   Questions from members of the Board  
21 of this witness?

22                (No audible response.)

23          BENNY WAMPLER:   Do you have anything further?

24

1           JIM KISER:    We'd ask that the application be  
2 approved as submitted, with the caveat that we're going to  
3 submit a revised Exhibit B that has the new leased and  
4 unleased percentages to you. We'll get that to you tomorrow  
5 by either Fed-Ex or fax. Then with the...make sure that  
6 we're clear with the additional change that we will have an  
7 escrow account established to take care of the possible  
8 unknown claimant in tract two.

9           BENNY WAMPLER:   Is there a motion?

10          MAX LEWIS:    I make a motion we approve it.

11          CLYDE KING:    Second.

12          BENNY WAMPLER:   We have a motion to approve and a  
13 second. Is there any further discussion?

14                (No audible response.)

15          BENNY WAMPLER:   All in favor, signify by saying  
16 yes.

17                (All members signify by yes.)

18          BENNY WAMPLER:   Opposed, say no.

19                (No audible response.)

20          BENNY WAMPLER:   You have approval. The next item  
21 is a petition from Equitable Production Company for pooling  
22 of coalbed methane unit identified as V-4482, which is docket  
23 number VGOB-01-06/19-0899. We'd ask the parties that wish to  
24

1 address the Board in this matter to come forward at this  
2 time.

3 Do you all need a break? Anybody need a break?

4 SANDRA RIGGS: The court reporter needs a break.

5 BENNY WAMPLER: Do you need a break?

6 COURT REPORTER: About a minute.

7 BENNY WAMPLER: We'll take it.

8 (Off record.)

9 BENNY WAMPLER: The docket has been called. The  
10 record will show there are no others.

11 JIM KISER: This is Jim Kiser, on behalf of  
12 Equitable Production. Our witness in this matter will be Mr.  
13 Hall. I'll remind him that he's been previously sworn.

14

15

16

17

18

19

20

21

22

23

24

--

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

DON HALL

DIRECT EXAMINATION

QUESTIONS BY MR. KISER:

Q. Mr. Hall, can you state your name for the Board, who you're employed by, and in what capacity?

A. My name's Don Hall. I'm employed by Equitable Production Company as District Landman.

Q. And you are familiar with the plan involved here and the surrounding area?

A. Yes.

Q. And you've reviewed Equitable's application seeking a pooling order for EPC well number VC-4482, which was dated May 18<sup>th</sup> of 2001?

A. Yes.

Q. And is Equitable seeking to force pool the drilling rights underlying the unit as depicted at Exhibit A of the application?

A. Yes.

Q, Exhibit A that was just passed out has got a revision to it from that that was submitted with the application which corrects the interest owner on tract number 10 from Gaynell Hill to Edgar and Sheila Hill?

A. The application indicated it was Edgar and

1 Sheila. I think the plat that was submitted with it was  
2 erroneous. Edgar and Shelia was notified. I passed out a  
3 new plat there while you were on break. That would be tract  
4 number 10 on the sheet, the tract information sheet.

5 Q. So the proper ownership information is Edgar  
6 and Shelia, right?

7 A. Right. It was correct in the Exhibit B, but  
8 I just wanted to pass out a plat that reflected that.

9 Q. Okay.

10 Q. Does the location proposed for this well  
11 fall within the Board's order for the Nora Coalbed Gas Field?

12 A. Yes.

13 Q. Now, prior to filing the application, were  
14 efforts made to contact each of the respondents in the unit  
15 and an attempt made to work out a voluntary oil and gas  
16 leases

17 A. Yes.

18 Q. Does Equitable own drilling rights in the  
19 unit involved here?

20 A. We do.

21 Q. What is the interest of Equitable in the gas  
22 estate within the unit?

23 A. We have 88.9% leased.

24

--

1 Q. And 11.10% remains unleased?

2 A. That is correct.

3 Q. And what is the interest of equitable in the  
4 coal estate?

5 A. 100% leased.

6 Q. All the unleased parties are set out in  
7 Exhibit B?

8 A. Yes.

9 BENNY WAMPLER: Now in exhibit B...I don't mean to  
10 interrupt you.

11 JIM KISER: That's all right.

12 BENNY WAMPLER: Under number 10, you still list  
13 Gaynell Hill there.

14 JIM KISER: You should have gotten a revised one.

15 BENNY WAMPLER: Did you say you passed out one?

16 DON HILL: I passed out a revised plat.

17 JIM KISER: I mailed a revised Exhibit B. I mailed  
18 out revised Exhibit Bs, Mr. Chairman.

19 MAX LEWIS: You should have a revised.

20 BENNY WAMPLER: I'm sorry, it's in the wrong place.

21 JIM KISER: That's all right.

22 BENNY WAMPLER: Carry on.

23 Q. Were reasonable and diligent efforts made  
24

1 and resources checked to identify and locate any unknown  
2 heirs which we do have in this unit to include primary  
3 sources such as deed records, probate records, assessor's  
4 records, treasurer's records and secondary sources such as  
5 telephone directories, city directories, family and friends?

6 A. Yes.

7 Q. In your professional opinion, was due  
8 diligence exercised to locate each of the respondents named  
9 herein?

10 A. Yes.

11 Q. Are addresses set out in the revised Exhibit  
12 B to the application the last known addresses for the  
13 respondents?

14 A. That's correct.

15 Q. And are you requesting this Board to force  
16 all unleased interest listed in the revised Exhibit B?

17 A. Yes.

18 Q. Are you familiar with the fair market value  
19 of drilling rights in the unit here and in the surrounding  
20 area?

21 A. Yes.

22 Q. Could you advise the Board as to what those  
23 are?

24

--

1           A.       \$5 year bonus, a five year term and a one-  
2 eighth royalty.

3           Q.       Did you gain your familiarity by acquiring  
4 oil and gas leases, coalbed methane leases and other  
5 agreements involving the transfer of drilling rights in the  
6 unit involved here and in the surrounding area?

7           A.       yes, sir.

8           Q.       In your professional opinion, do the terms  
9 you have testified to represent the fair market value of and  
10 the fair and reasonable compensation to be paid for drilling  
11 rights within this unit?

12          A.       Yes.

13          JIM KISER: At this time, Mr. Chairman, I'd ask  
14 that the testimony that was given in VGOB docket number 00-  
15 11/21-0848, which was the first matter heard this morning  
16 regarding election options and the force pool respondents  
17 time lines and rights under those election options be  
18 incorporated into this hearing.

19          BENNY WAMPLER: They'll be incorporated.

20          Q.       Mr. Hall, we do have in this particular  
21 situation both conflicting claimant situation and an unknown  
22 owner situation, so would we ask the Board to establish an  
23 escrow account into which any proceeds or costs attributable  
24



1 to those interests can be paid?

2 A. Yes.

3 Q. And who should be named operator under any

4 force pooling order?

5 A. Equitable Production Company.

6 Q. Now, what is the total depth of the proposed

7 well under the plan of development?

8 A. 2681 feet.

9 Q. And the estimated reserves of the unit?

10 A. 375,000,000 cubic feet.

11 Q. And are you familiar with the well costs for

12 this well?

13 A. Yes.

14 Q. And has an AFE been reviewed, signed and

15 submitted to the Board as Exhibit C to the application?

16 A. Yes.

17 Q. Was the AFE prepared by an engineering

18 department knowledgeable in the preparation of AFEs and

19 knowledgeable in regard to well costs in this area?

20 A. Yes.

21 Q. In your professional opinion, does the AFE

22 represent a reasonable estimate for well costs in this area?

23 A. Yes, sir.

24

1 Q. Can you state for the Board both the dry  
2 hole cost and completed well cost for VC-4482?

3 A. The dry hole costs is \$95,160 and completed  
4 well costs is \$188,440.

5 Q. Do these costs anticipate a multiple  
6 completion?

7 A. Yes.

8 Q. Does your AFE include a reasonable charge  
9 for supervision?

10 A. Yes.

11 Q. In your professional opinion, will the  
12 granting of this application be in the best interest of  
13 conservation, prevention of waste and the protection of  
14 correlative rights?

15 A. Yes.

16 JIM KISER: Nothing further of this witness at this  
17 time, Mr. Chairman.

18 BENNY WAMPLER: Questions from members of the Board?

19 (No audible response.)

20 BENNY WAMPLER: Do you have anything further?

21 JIM KISER: We'd ask that the application be  
22 approved as submitted.

23 BENNY WAMPLER: Do we have a motion?

24

--

1           MAX LEWIS: I make a motion to approve as submitted.

2           CLYDE KING: I second.

3           BENNY WAMPLER: Motion and second. Any further

4 discussion?

5           (No audible response.)

6           BENNY WAMPLER: All in favor, signify by saying yes?

7           (All members signify yes.)

8           BENNY WAMPLER: Opposed, say no.

9           (No audible response.)

10          BENNY WAMPLER: You have approval. Thank you. The

11 last item on today's agenda, the Board will consider a

12 petition from Equitable Production Company to pooling of

13 coalbed methane unit identified as VC-4647, docket number

14 VGOB-01-02/20-0869-1. We'd ask the parties that wish to

15 address the Board in this matter to come forward at this

16 time.

17          JIM KISER: Mr. Chairman, members of the Board, Jim

18 Kiser again on behalf of Equitable Production Company. Our

19 witness again will be Don Hall. Now, this matter is actually

20 a modification of a prior Board order that was executed on...

21 it was on the February docket of this year. It was docket

22 number 01-0220-0869. It was executed on April 3rd by Mr.

23 Wampler, and at the time that we received this, if memory

24

1 serves me correct, I called Ms. Riggs and we knew that we had  
2 a problem and we were going to have to go back in and modify  
3 because what we thought was one tract was actually two tracts  
4 and it changed some of the interests involved. And the  
5 reason I even bring this up is because Terry Ball, who is one  
6 of the pooled parties in the hearing in February, sent a  
7 letter to you all, you know, stating that he didn't get a  
8 copy of the Board order and he didn't get a copy...he didn't  
9 get an election letter or anything like that. Well, the  
10 reason he didn't was because we knew that we were going to  
11 have to come back and redo the whole thing. It wasn't any  
12 kind of oversight or purposeful avoiding of sending him  
13 anything. So, I just wanted to address that up front.

14 BOB WILSON: Mr. Chairman, if I may?

15 BENNY WAMPLER: Yes.

16 BOB WILSON: The letter came into our office, of  
17 course, and I tried to contact Mr. Ball by phone and had no  
18 luck whatsoever. I will respond to this and tell him that he  
19 will get his elections as a result of this hearing, not as a  
20 result of the earlier one since this is a modification of  
21 that order, if that is correct.

22 JIM KISER: Yeah, that is correct.

23

24

--

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

DON HALL

DIRECT EXAMINATION

QUESTIONS BY MR. KISER:

Q. Mr. Hall, if you'd again state your name for the Board, who you're employed by, and in what capacity?

A. My name's Don Hall. I'm employed by Equitable Production Company as District Landman.

Q. And you're familiar with our application that we filed seeking a modification of the prior Board order that was issued in April of 2001?

A. Yes.

Q. And we are again seeking to force pool drilling rights underlying the unit depicted in Exhibit A?

A. Yes.

Q. Does this location fall within the Board's order for the Nora Coalbed Field?

A. It does.

Q. Now, before we get into the percentages leased and unleased, can you kind of explain for the Board exactly what happened here?

A. After the force pooling hearing in...I believe you said it was in February.

Q. Yeah, February 20th.

1           A.       Further title work determined that a 25 acre  
2 portion of the 109 acre tract that we had initially force  
3 pooled had some additional owners in addition to the ones  
4 that we covered under the original force pooling. At that  
5 time, we realized that we had to come back and either release  
6 or force pool these people. That's the reason we're back  
7 here with this modification.

8           Q.       Did everyone whose interest changed  
9 regardless...in other words, if you added some people, then  
10 some people's interest had to be diluted. Did we notice  
11 everybody as required by statute and regulation whose  
12 interest changed in conjunction with this modification?

13          A.       Yes, we did.

14          Q.       And what is the interest at this time of  
15 Equitable in the gas estate?

16          A.       We have 88.26% leased at this time.

17          Q.       Okay. And the coal estate?

18          A.       The same.

19          Q.       The same? Also 88.26?

20          A.       Yes, sir.

21          Q.       And are all the unleased parties set out in  
22 Exhibit B?

23          A.       They are.

24

--

1                   Q.       And would the percentage of both the gas  
2   estate and coal estate that remains unleased be 11.74%?

3                   A.       That is correct.

4                   Q.       And in your professional opinion, was due  
5   diligence exercised to locate each of the respondents named  
6   herein?

7                   A.       It was.

8                   Q.       Were reasonable and diligent efforts made  
9   and resources checked to identify and located any unknown  
10   heirs which we do have in this unit to include primary  
11   sources such as deed records, probate records, assessor's  
12   records, treasurer's records and secondary sources such as  
13   telephone directories, city directories, family and friends?

14                  A.       Yes.

15                  Q.       Are the addresses set out in Exhibit B to  
16   the modification application the last known addresses for the  
17   respondents?

18                  A.       Yes, sir.

19                  Q.       And are you requesting this Board to force  
20   pool all unleased interest listed in Exhibit B?

21                  A.       Yes, sir.

22                  Q.       Now, are you familiar with the fair market  
23   value drilling rights here and in the surrounding area?

24

--

1                   A.       Yes.

2                   Q.       Could you advise the Board as to what those  
3 are?

4                   A.       Five dollar a year bonus, a five year term  
5 and a one-eighth royalty.

6                   Q.       In your opinion, do the terms you have  
7 testified to represent the fair market value of and the fair  
8 and reasonable compensation to be paid for drilling rights in  
9 this unit?

10                  A.       Yes.

11                  JIM KISER: Mr. Chairman, I'd once again ask that  
12 the testimony regarding the options afforded to the force  
13 pooling respondents that was taken in 00-11/21-0848 be  
14 incorporated in this hearing?

15                  BENNY WAMPLER: They will be incorporated.

16                  Q.       And who should be named operator under any  
17 force pooling order?

18                  A.       Equitable Production.

19                  Q.       And what is the total depth of this well  
20 under the plan of development?

21                  A.       2,045 feet.

22                  Q.       And the estimated reserves?

23                  A.       325,000,000 cubic feet.

24  
~



1                   Q.       And are you familiar with the AFE that's  
2 been reviewed, signed and submitted to the Board as Exhibit  
3 C?

4                   A.       Yes.

5                   Q.       Was this AFE prepared by an engineering  
6 department knowledgeable in the preparation of AFEs and  
7 knowledgeable in regard to well costs in this area?

8                   A.       Yes, sir.

9                   Q.       Does it represent a reasonable estimate, in  
10 your professional opinion, of the well costs for this well?

11                  A.       Yes, sir.

12                  Q.       Can you state for the Board both the dry  
13 hole cost and completed well cost?

14                  A.       The dry hole cost is \$73,580. The completed  
15 well costs is \$194,390.

16                  Q.       Do these costs anticipate a multiple  
17 completion?

18                  A.       Yes.

19                  Q.       Does your AFE include a reasonable charge  
20 for supervision?

21                  A.       Yes.

22                  Q.       In your professional opinion, will the  
23 granting of this application be in the best interest of  
24

1 conservation, prevention of waste and the protection of  
2 correlative rights?

3 A. Yes.

4 JIM KISER: Nothing further of this witness at this  
5 time, Mr. Chairman.

6 BENNY WAMPLER: Questions from members of the Board?

7 MAX LEWIS: You say you've done all to try to  
8 contact these people here?

9 A. Yes, we have.

10 BENNY WAMPLER: Other people in the tracts didn't  
11 know who they were, didn't know?

12 A. We're continuing to pursue it.

13 BENNY WAMPLER: Other questions?

14 (No audible response.)

15 BENNY WAMPLER: Do you have anything further?

16 JIM KISER: Mr. Chairman, we'd ask that the  
17 application to modify the prior Board order be approved as  
18 submitted.

19 BOB WILSON: Mr. Chairman, for the record, the  
20 Board also received a letter from a Ms. Sally Compton  
21 addressed to the Board, and as I say, this is strictly to get  
22 it into the record. She was mainly concerned about lease  
23 terms that had been offered by the company. I replied to  
24

1 her, stating that the Board did not involve themselves in  
2 lease negotiations, advising her of her right to appear at  
3 the pooling hearing and make her case if she had one at that  
4 time. She also had some information regarding some of the  
5 heirs, which I forwarded to Mr. Hall.

6           DON HALL: We talked with Ms. Compton and she was  
7 telling us that she thought some of the people we had listed  
8 as heirs were not indeed heirs now, that they had sold their  
9 property probably in the fifties. Upon further investigation  
10 and discussion with her, we found that she was talking about  
11 a separate tract. It was a piece of surface tract somewhere  
12 else that she wasn't...was confusing with this tract that  
13 we're dealing with.

14           BENNY WAMPLER: Anything further?

15           (No audible response.)

16           BENNY WAMPLER: Is there a motion?

17           CLYDE KING: So move.

18           BENNY WAMPLER: Motion to approve. Is there a  
19 second?

20           MASON BRENT: Second.

21           BENNY WAMPLER: Motion and second. Any further  
22 discussion?

23           (No audible response.)

24

--

1           BENNY WAMPLER: All in favor, signify by saying yes?  
2           (All members signify yes except Max Lewis.)  
3           BENNY WAMPLER: Opposed, say no.  
4           MAX LEWIS: No.  
5           BENNY WAMPLER: You have approval. Thank you.  
6           BOB WILSON: Mr. Chairman?  
7           BENNY WAMPLER: Yes.  
8           BOB WILSON: Before we shut down here, I have one  
9 item I'd like to ask the Board's thoughts on. June will be  
10 the end of the second quarter and we have the option  
11 requiring the representative of the escrow agent to come down  
12 and appear here in person, or we can actually present the  
13 report ourselves. Do we want to have them come down, or shall  
14 we just solicit the report and present ourselves? What's  
15 your pleasure?  
16           CLYDE KING: Will they charge us to come?  
17           BOB WILSON: Yes, we have to pay their expenses to  
18 come. They charge it against the escrow account.  
19           BENNY WAMPLER: What's your opinion of how, let  
20 them do it, as far as the reports and everything?  
21           BOB WILSON: In my opinion, we're doing real well.  
22 The reports have been coming in on a timely basis. We've  
23 been getting them under terms of the contract on a regular  
24

1 basis electronically and in hard copy. We have had a series  
2 of ongoing corrections that we've made to the reports that  
3 they have addressed in a timely fashion. So, things have  
4 been going quite smoothly; and they've been...they've been  
5 very responsive to our requests. There's been some  
6 confusion, I think, sometimes between the agent and the  
7 company people so far as getting some of these payouts taken  
8 care of, so far as who is going to wait on who to do what,  
9 but I think that has more to do with communication than  
10 anything else.

11           SANDRA RIGGS: I think, you know, for Buchanan and  
12 PGP, they worked...they have an internal person who has  
13 worked out a data base where she can do these spreadsheets  
14 and those seem to go real smoothly. In some of the other  
15 situations, like with Virginia Gas, they have...they so  
16 infrequently have to deal with the issue, that they really  
17 haven't worked out an internal process for coming up with  
18 these spreadsheets to have something to compare to. But  
19 that's the only place I've seen any slowdown between the  
20 coordination between the two is where the operator doesn't  
21 seem to have either a person or a process to come up with the  
22 starting point to make the comparison.

23           BENNY WAMPLER: Well, you want to just let Mr.

24

--

1 Wilson present the report next time and we'll bring them in  
2 if we start having any problems?

3 (All members indicate yes.

4 BENNY WAMPLER: Anything further?

5 (No audible response.)

6 BENNY WAMPLER: That concludes today's hearing.

7 Thank you all very much.

8

9 STATE OF VIRGINIA,

10 COUNTY OF BUCHANAN, to-wit:

11 I, Sonya Michelle Brown, Court Reporter and Notary  
12 Public for the State of Virginia, do hereby certify that the  
13 foregoing hearing was recorded by me on a tape recording  
14 machine and later transcribed by me personally.

15 Given under my hand and seal on this the 9th day of  
16 July, 2001.

17

NOTARY PUBLIC

18

19 My commission expires: August 31, 2005.

20

21

22

23

24

--